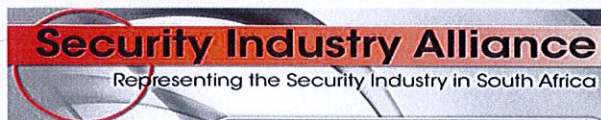


# THE FIREARMS CONTROL ACT

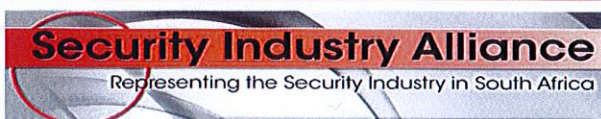
HAS IT BEEN IMPLEMENTED  
SUCCESSFULLY?

Presentation by Martin Hood  
03 June 2015



## History of Firearms Control Act introduced in 2004

*All annexures referred to will be distributed at  
the presentation*



# Introduction

- Introduced in 2004 with no supporting policy
  - Distrust between industry, civil society, CFR and politicians;
  - Court cases
- Resulted in Ministerial announcement of November 2010 (Annexure “A”)

*“It is crystal clear that significant problems still exist with regard to the smooth implementation and administration of this Act.”*  
Minister of Police – The Honourable Mr Nathi Mthethwa



## Ministerial Announcement November 2010

- Resulted in:
  - Removal of first head of CFR;
  - Monitoring of CFR by Secretariat for Safety and Security;
  - Secretariat tasked to investigate CFR;
  - Attempts to set up consultative forums
- Secretariat report not released to public (Annexure “B”)





## Problems identified – 2009/2010

- Integrity of database;
- Ineffective communication;
- Lacklustre IT systems;
- Corruption;
- Management & organisational challenges at CFR;
- Maladministration – court cases



## Recommendations made 2009/2010

- Intervention team – backlogs;
- Management changes at CFR;
- Redesign of CFR's IT system;
- Investigation into corruption and bribery
  - Dealers;
  - Firearm trainers





# Ministerial Corruption and Bribery Enquiry 2013

*"Last week I announced Ms Saria Hashim SC and Advocate R Ramashia to head an enquiry that is currently investigating (these) allegations because if they are indeed proven true, these could negatively impact our crime reduction efforts. We must not allow this to happen. Within the next six weeks they will complete their investigations and will provide me with a comprehensive report on their findings including recommendations. I will then publically announce the findings."*

30<sup>th</sup> May 2013 - Minister of police – Mr Nathi Mthethwa  
(Annexure "C")



## Where are we today - 2015





# 2015

*"I am very sad to say today that with the billions that the South African Police Services gets every year from Government since 1994, we are still plagued with the same problems of a Central Firearms Registry that is dysfunctional and in constant decay!"*

25<sup>th</sup> March 2015 - Deputy Minister Soty

(Annexure "D")

- Deputy Minister to be congratulated but
  - Problems remain;
  - No willingness from CFR for resolution



## Example

- Case number 13528/2015 –

*"It is denied that there are structural and administrative difficulties in the Administration of the Central Firearms Registry. There were such difficulties some years back in 2010 but those problems were since rectified and the administration is running smoothly at present".*

8<sup>th</sup> March 2015 - Colonel Sibongile Dorah Kibido

Excerpt from a signed affidavit in court case  
(Annexure "E")





# Example

- Case number 13528/2015 –
  - Signed affidavit;
  - Dishonest and misleading;
  - Symptomatic of the refusal of CFR to acknowledge and deal with problems
- Not an isolated problem

*see e-mail from Brigadier Mabule as (Annexure “F”).*



## Commitment of SIA and Industry

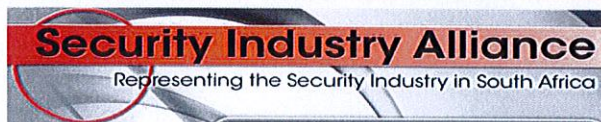
- Work positively with SAPS and at political level;
- Work with PSIRA
  - Successful and productive relationship exists;
  - PSIRA limited by lack of funding and resources
- Organised and compliant Industry, Government, Law enforcement and Regulator to work together





# Objective overview of problems in the CFR today

- Corrupt database remains
  - Difficulty amending / updating information
  - Relicensing unsuccessful as data correction not achieved
- Lack of transparency continues
  - No consultation with forums and no response to problems submitted by forums
- No progress with IT system
  - No new IT system tender awarded
  - No electronic connectivity



# Objective overview of problems in CFR today cont.

- Management & organisational challenges persist:
  - Inefficient distribution of resources;
  - Vacancies in CFR;
  - Firearms environment is a specialty - correct remuneration
- **Acts and regulations remain unsupported by a policy**





# Implications of lack of policy

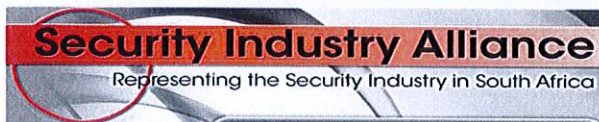
Policy not publically available nor compliant with constitution leads to:

- **Arbitrary and/or capricious inconsistent application of Act from**

- Station to station
- Region to region and
- Province to province

within the CFR and the Appeal Board

*(Annexures “G” and “H”)*



# Implications of lack of guidelines

- No guidelines / policy for:

- Security industry firearms
- Importation of firearms
- SAPS 21 Permits - Short term permits
- Processing of SAPS forms
  - Processing of dealer stock reports
- Lodging and processing applications – 90 days?
- Information required for application
  - SAPS removing documents from applications





# How can progress be achieved?

- There must be a political will to:
  - Recognise and embrace the problem;
  - Co operate with stakeholders;
  - Work with industry
    - Practical solutions;
    - Focus on admin and implementation;
    - Centralise or delegate;
    - Full audit of database;
  - Establish Ministerial committees outside of CFR and at top level in SAPS



## Progress specifically for the Security Industry

- Effective implementation of PSIRA legislation
- Empowerment of PSIRA
  - non-compliant providers to be made compliant
- Integration of PSIRA and SAPS databases
- No quick fix
- In for the long hall
- Embrace the lawyers!





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## Challenges affecting the SAPS firearms application and licensing processes

**Remarks by Minister of Police, E.N. Mthethwa, MP to the National Press Club on, Sheraton Hotel, Pretoria**

**02 November 2010**

Newly-appointed Deputy Minister of Police, Ms Magdeline Soty; National Police Commissioner of Police, General Bheki Cele; Secretary of Police, Ms Jenni Irish-Qhobosheane; Deputy Chairperson of the National Press Club, Jos Charle; Executive Members of the National Press Club; Members of the Media; Ladies and Gentlemen

**Crime Stop**  
0860010111  
**Submit a Tip**

**Report**  
Child Abuse/Images  
childprotect@saps.org.za

**National Firearms Call Centre**  
+27 12 353 6111

**Police Emergency Nr 10111**



I we take this opportunity to welcome our Deputy Minister of Police, Ms Magdeline Soty. We are confident that she will make a positive contribution to our mission on fighting this scourge. Indeed she joins this ship at a time when we are in full swing with our programmes and remain optimistic she will add oomph on this crusade. We also wish to express our appreciation to the National Press Club, its executive and members for allowing us to communicate to the nation this morning. Your platform continues to be a vital link in helping us to reach as many South Africans as possible. We shall expect this relationship to continue to flourish.

### **An overview of the Central Firearms Registry**

As the leadership and management of police we would like to share the current state of affairs in one of the components within SAPS, the Central Firearms Registry (CFR). Indeed the importance of this section cannot be over-emphasized. Our success or failure in fighting crime is to a large extent, dependent on how effectively-managed this section is. It is a make or break and hence at all material times, its effectiveness cannot be compromised. Let us begin by emphasizing a point we have been making, that in order to score victories in the fight against crime; we need to ensure that our own 'house' is in order. This speaks to the caliber of police officers, the importance of management systems as well as ensuring



that we have in place clear policy frameworks that support our vision: Ensuring That All People In South Africa Are, and Feel Safe.

We began this process by looking at what works well and where bottlenecks exist. Such a process would then inform us on how, why, where and when we need to fix things. Preceded by the actions, it is vital to make sure that where we put in place corrective measures, we do so promptly while guided through informed and empirical findings.

#### **Firearms Control Act – a cornerstone in firearms management**

As most South Africans would know, the Firearms Control Act (FCA), 2000 (Act 60 of 2000) was passed in 2001 however only came into effect in 2004. The main reason was to allow SAPS to put in place the necessary systems and processes required for its proper implementation. Parallel to these processes, the Act required that certain regulations and legal administrative processes be developed to accompany it. Under the Act, the Minister of Police is also empowered to make certain transitional arrangements to allow firearm owners and members of the public to fully comply with different aspects of the Act and subsequent regulations. Despite the intention of the Act and resources that have been allocated to the CFR, it is crystal clear that significant problems still exist with regard to the smooth implementation and administration of this Act.

#### **Effective firearms control – our priority**

The creation of an effective allocation of firearms and control thereof is a matter that, without fear or favour, has always been a priority for this Ministry. Our view is premised along a thinking that, no matter how committed we can all be in the fight and reduction of crime; if one portion of our chain is weak, it will weaken the entire chain. In addition, the importance of ensuring a sustained and efficient implementation of the Act was recently highlighted at this year's Cabinet Lekgotla. This area was identified as one of the priority of Cabinet and government's approach to firearm control. It therefore became even more necessary to tackle the challenges facing SAPS with regard to the legislative processes surrounding the Act.

#### **What works well and what does not at CFR?**

Earlier this year, we received increasing number of complaints from certain sections of society, ranging from ordinary South Africans to organized formations in this related to the firearms field. These complaints and allegations, primarily related to the malfunctioning of the SAPS' Central Firearms Registry and alleged improper implementation of the related aspects of the Firearms Control Act and its regulations. To determine their legitimacy and



authenticity, we had to take certain steps.

#### **Appointment of a Task Team to probe and recommend solutions**

I then instituted a Task Team led by the Civilian Secretariat of Police to undertake an in-depth and thorough assessment of the problems experienced with the implementation of the Act. Their terms of reference were straight-forward: through an assessment of the current situation, to develop a clear set of recommendations on how the problems in the CFR administration of the Act could be addressed; speedily and cost-effectively. This team has now finalized its investigations and presented us with a final report in the past weeks. The Secretary of Police is here with us and she will go deeper in terms of the processes involved in the assessment, including visits to affected provinces, police stations, interviews conducted with various parties, analytical reviews of the Act and so forth.

#### **Maintaining transparency while finding lasting solutions**

We want to frankly state to the nation that the current state of affairs at the CFR is far from what and how it is supposed to be. That is, if we are serious about reducing crime. Instead of serving as an additional arsenal to our mission, suffice to say the CFR currently acts as a bottleneck in our crime-fighting initiatives. Our overall purpose arising from today's briefing is to highlight these major challenges but at the same time, outline key proposed solutions to address them. Key challenges identified during the Task Team's assessment regarding the implementation of the FCA, which seriously impact on SAPS' ability to implement the Act include:

#### **Backlog in the processing of licenses**

One of the biggest challenges for the effective implementation of the Act is the ability of the CFR and provinces to process license applications. There are currently major backlogs in processing these licenses and such backlogs contribute as the major causes of litigations brought against SAPS. On average a renewal for a firearm license could take between 5 months and 6 years to be finalized. We have been informed about some of the factors that contribute to such delays (incorrectly-filled forms by applicants, delays in the finalization of competency certificates and delays in the conducting safe inspections). In our view, this is still unacceptable.

#### **Corruption and irregular issuing of licenses**

During the assessment a number of concerning issues were raised regarding irregularities in the issuing of firearms licenses. Some of these include issuing of firearm licenses under the old Arms and Ammunition Act. There are also cases where a single firearm is



licensed to two different individuals and/or illegally issuing firearms to people who have been genuinely refused licenses (such individuals having to pay bribes).

### **Integrity of the database system**

One of the objectives of the FCA was to ensure a new database with accurate and comprehensive picture of who owns what firearm and when the license is due for renewal. However the backlogs in renewal applications coupled with irregularities in the issuing of firearm licenses under the Act, raises serious questions regarding the integrity of the new database system.

### **Court cases lodged against the CFR**

As a result of the backlogs and inefficiencies in the processing of the firearms, the Department has been subjected to significant litigation and court applications (more so cases brought against the Minister and the National Commissioner). To a large degree, our review indicates that the majority of cases brought against the Department appear to relate to issues of administration which in essence, could have been avoided had people tasked with managing these process acted effectively.

### **Management and organizational design of the CFR**

We have noted that some of the challenges relate to the organizational design of the CFR is over complicated and does not necessarily speak to the requirement of the Act and regulations. Individual accountability for performance is not necessarily linked to overall objectives of the various components of the structure; hence the continuation of backlogs with no corrective measures taken against poor or under-performing members.

### **Lack of effective communication within CFR**

One of the identified challenges relates to poor communication. Instead of communicating requirements for licensing to members of the public, the CFR has rather chosen to keep the public in the dark regarding the licensing processes. This approach has meant that people who do not qualify for licenses apply in the belief that they have a right to such licenses. As a result the systems become overloaded with inappropriate and incomplete licensing application forms.

### **Lackluster IT systems**

The assessment further pointed out that we have invested in an Information Technology (IT) system that is currently under-utilized, as much of the work is done manually. The other challenge is the management for not appreciating the full extent of the task at hand.



**Recommendations to turn-around the CFR into a functional unit**

Having provided a much clearer depiction of the state of affairs, it is important to formulate remedial steps to resolve and turn around this current state of CFR. Below are the urgent remedial steps:

**Establishment of an Intervention Team to address current backlogs**

We have taken a decision to establish an Intervention Team consisting of representatives from SAPS (a representative from National Commissioner's office), Police representative from each province, representative from Business, representative from the Secretariat and other persons as required. We need to emphasize that this Intervention Team will draw on senior experts complemented by operational people who are familiar with the challenges. As part of an integrated approach, they will be in consultation with some of the teams who have been involved in turnaround strategies of other departments such as Home Affairs, SARS, etc to derive best practice turn-around models. We have put a 9 month turnaround time to resolve all outstanding backlogs. On a monthly basis this Team shall report to the Minister and National Commissioner on progress.

**Urgent management changes at CFR**

The current management neither recognized the seriousness of the problems nor has shown readiness to adapt its structures and procedures to address the challenges. In this context it will not be possible for SAPS to embark on any turnaround strategy under the current management. We shall therefore effect changes. In effecting this change, we are cognizant that this management has vast knowledge of the FCA; unfortunately this knowledge is centralized in a few individuals and does not necessarily contribute to the effective management of the FCA.

**Urgent development and intensifying of Communications Strategy**

As a matter of urgency, beginning with this public briefing today, we will be intensifying the Triple-C approach: communications, command-and-control as well as coordination. But the emphasis for CFR will be around communications. Yesterday, the Secretary of Police also met with various affected firearm owner formations to discuss these new proposed interventions we are undertaking. We are informed the outcome of the meeting was positive. We have long stated that we shall not become denialists. We affirmed our position that, in areas where there are stumbling blocks, we will never deny such occurrences but shall accept the shortcomings, while finding solutions to such challenges. We therefore want to



assure the public that efforts will be made to effectively improve our communications across the organization to address frustrations and to re-enforce government's commitment to implementing the FCA.

#### **Redesign of the Firearms Registry's systems (IT and Operational)**

This is a critical area that requires our attention if we are to succeed in this field. The overall objective is to ensure we have our systems speaking to each other so that the firearms licensing process becomes seamless, simple and efficient. Once the processes are in place, a key focus will be around skills and on-the-job training of personnel, followed by strict monitoring and evaluation processes.

#### **More hands-on approach in dealing with legal cases**

The ongoing litigation cases brought against the SAPS dampen the public's confidence in the organization. With immediate effect, we have now tasked the Secretariat assisted by SAPS legal team to monitor legal challenges related to the FCA. They will then compile a monthly summary of cases and report on the status of such cases. We need to ensure that we are on a sound footing legally and operationally. That is why our legal team is advising us on ensuring we 'clean out' this Force without any legal or negative financial implications to the taxpayer.

#### **Launch an investigation in all the corruption and bribery cases**

While we may continue to improve our systems, effecting management changes at CFR, we still need to ensure that those who have been involved in corrupt activities, are brought to book. We have begun this process and whether it is the corrupter or corruptee, we shall ensure that they all face the full might of the law. We shall do this without fear or favour. We shall ensure that those who are not committed to helping us achieve our goals, are excused from this mission to make way to those who want to deliver. Those who have not been involved in corrupt practices within the CFR, but lacked disciplinary focus would have to be taken through necessary processes as well.

#### **Conclusion**

As we conclude, we want to emphasize that the challenges in the implementation of the FCA not only undermine our approach to firearms control and management, but it also puts the lives of law-abiding citizens in danger. As pointed out in our recent crime statistics, illegal firearms contribute to the high rate of robberies, rape, hijackings and murder. It has also been revealed that if we can deal with these illegal firearms which happen to be in the hands of criminals, we can significantly reduce crime across all facets. We



shall not allow those who are tasked to protect the innocent and vulnerable to become part of promoting this vicious scourge of crime; either by omission or commission. It is therefore inconceivable that police officers would compromise innocent lives due to their laziness, inefficiency or ineptitude. What further infuriates is when one asks questions around the challenges in this area, we do not get clear and forthright answers. In fact in areas where one gets answers, they are not satisfactory. Clearly there are some within SAPS who have adopted and still apply a leisurely approach in carrying out their duties. We are saying, their time is up. 2010 is A Year of Action: Ensuring That All People In South Africa Are, and Feel Safe. We cannot achieve this goal if our house is in tatters, hence our resolve to fix things, and fix them now.

I thank you.

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Ministry of Police  
Republic of South Africa  
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Email: [zwelim@saps.org.za](mailto:zwelim@saps.org.za)



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B

**CIVILIAN SECRETARIAT FOR POLICE**

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**ENQUIRY INTO THE FUNCTIONING OF THE CENTRAL FIREARMS  
REGISTRY AND THE IMPLEMENTATION OF RELATED ASPECTS OF  
THE FIREARMS CONTROL ACT, 2000 (Act 60 of 2000) AND THE**



## Task Team Report on the Implementation of the FCA

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## LIST OF ABBREVIATIONS

AFIS	AUTOMATED FINGERPRINT INFORMATION SYSTEM
AVS	APPLICATION VERIFICATION SERVICES
CAS	CASE ADMINISTRATION SYSTEM
CFR	CENTRAL FIREARMS REGISTRY
CRC	CRIMINAL RECORD CENTRE
CRIM	CRIME RISK INFORMATION MANAGEMENT
DFO	DESIGNATED FIREARMS OFFICER
DHA	DEPARTMENT OF HOME AFFAIRS
DVA	DOMESTIC VIOLENCE ACT
EDMS	ELECTRONIC DOCUMENT MANAGEMENT SYSTEM
FCS	FIREARMS CONTROL CENTRE
FLASH	FIREARMS, LIQUOR AND SECOND-HAND GOODS CENTRES
FRC	FIREARMS REGISTRY CENTRE
IBIS	INTEGRATED BALLISTIC INFORMATION SYSTEM
ISM	INFORMATION AND SYSTEMS MANAGEMENT
IT	INFORMATION TECHNOLOGY
NI	NATIONAL INSTRUCTION
PEP	PERFORMANCE ENHANCEMENT PROGRAMME
PSIRA	PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY



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**1. Introduction**

In the drafting of the FCA, there were a number of key issues that the implementation of this Act was intended to address. These included the following:

- Preventing the proliferation of specifically small arms in the country (especially handguns and assault firearms);
- Addressing and tracking the large number of small arms (specifically handguns) issued to members of various government departments under the apartheid;
- Actively encouraging a culture of responsible firearm ownership in South Africa;
- Cleaning up the National Firearms Register which, at the time, still included firearms issued to Namibian citizens emanating from the South-West Africa era;
- Clearing the National Firearms Register of records of those firearms licensed to deceased persons and which had not been clearly handled by the deceased's respective estates;
- To ensure that the development of a Central Firearms Registry which would address the integrity of data captured and available to government of accurate information regarding who possesses registered licensed firearms;
- Initiating a system through which firearms licences would be issued to applicants who had shown that they were responsible people who could be entrusted with firearms through the issue of competency certificates (ascertaining that a person to whom a firearm licence was issued was a stable and responsible person as provided for in Section 6 of the FCA whilst also complying with the stipulations of Regulations 13 and 14); and
- Ascertaining that applicants for firearm licences have proficient knowledge of the important aspects of the FCA, as well as being proficient in the handling of the various categories of firearms for which applications for licences can be submitted (compulsory training in SAQA approved unit standards pertaining to different categories of firearms - so-called proficiency training).



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- d. establish a comprehensive and effective system of firearm control and management; and
- e. ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.<sup>1</sup>

In introducing the Act in Parliament, the then Minister of Safety and Security stated that -

*"The Act is a critically needed and constructive piece of legislation which lays the foundation for more structured control of firearms in South Africa and ultimately Southern Africa. The legislation is comprehensive, yet easy to read and understand.*

*The active and sound implementation of this Act will further enhance the ability of the South African Police Service to serve and protect the community, and will ultimately bring about a safer South Africa."*

**2. Background to this report**

Parliament passed the Firearms Control Act (FCA) in 2000. The FCA was assented to by the President on the 4 April 2001 and put into operation with effect from the 1 July 2004.

The main reason that the Act only came into operation in 2004 was to allow SAPS (who are responsible for implementing the Act) to put in place the necessary systems and processes required for the implementation of the Act.

In the lead up to the Act becoming operational, SAPS were allocated R200 million to enable them to develop the necessary systems and capacity required for this implementation.

The Act requires the Registrar (the National Commissioner of the Police) to establish a Central Firearms Registry. The Central Firearms registry has been established under the Visible Policing Division.

The Act provides for an Appeals Board to hear appeals from people who have had their licenses refused. The Appeals Board is appointed by the Minister of Police. The SAPS are required to provide the administrative support



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Despite the intention of the Act and resources allocated to the CFR, significant problems still exist with regard the implementation and administration of the Act.

The importance of ensuring a sustained and efficient implementation of the Act was recently highlighted at the 2010 Cabinet Lekgotla. This area was identified as one of the priority action areas for the Department of Police.

In addressing this priority and government's approach to firearm control, it has become necessary to tackle the challenges that the department is facing with regard to the CFR and the legislative processes surrounding the Act.

In June 2010, the Minister of Police appointed a Task Team led by the Civilian Secretariat for Police to undertake a thorough and in-depth assessment of the problems experienced with the implementation of the Act.

The Task Team's role was, through an assessment of the current situation, to develop a clear set of recommendations on how the problems in the CFR administration of the Act could be addressed.

**2.1 Terms of Reference of the Task Team**

The assessment was required to address both the functioning of the CFR, and the legislative issues impacting on the firearms licensing processes and related matters in terms of the Act on the other.

The assessment drew on available expertise and experience relating to systems and processes that could contribute to improving the performance of the CFR as well as matters relating to firearm legislation.

The assessment covered the following areas:

- **Legislative Issues**  
The identification of gaps and weaknesses in the Firearms Control Act and Regulations
- **Process Issues**  
An assessment of the different processes, mechanisms and systems



**Task Team Report on the Implementation of the FCA****Confidential****2.2 Process involved in the assessment**

In carrying out the assessment the following steps were followed:

- Workshops held with the task team members to identify the approach to be used during the assessment.
- Conducting site visits to the CFR and engaging in discussions with key officials deployed at the CFR.
- Reviewing the licensing process at the CFR and observing how the process and the process flow worked within the CFR. This included an assessment of the end-to-end licensing process as well as examining a sample of licenses being processed by the CFR.
- Receiving and analysing official presentations from staff at the CFR, ISM, CRC and the Appeals Board. The ISM, SITA and the CRC were consulted with regard to their role in supporting the functioning of the CFR and not for evaluating the delivery of their mandate in the Department.
- Conducting site visits to Provinces and local Firearm Registry Centres at the following areas:
  - a. Gauteng: Brooklyn, Linden, and Soshanguve,
  - b. KwaZulu-Natal: Empangeni and KwaMashu,
  - c. Mpumalanga: Delmas, Middelburg, Nelspruit, and Witbank,
  - d. Western Cape: Mitchells Plain, Nyanga and Phillipi East.

Two Provincial DFO offices were visited (Gauteng and Mpumalanga). This was done in order to determine the role of a Province in the implementation of the Act.

- Conducting interviews with a variety of stakeholders and role players. These included people from the legal fraternity, NGOs, officials at the CFR, police officials investigating corruption at the CFR as well as CRC, ISM and SITA staff (where applicable).



## Task Team Report on the Implementation of the FCA

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- Conducting analytical reviews of documentation (the Act, Regulations, Directives, National Instructions, Application Forms, and other relevant documents).
- Reviewing certain Court Judgement and the 2007 Public Protector's Report.
- Conducting a series of workshops with the Task Team based on information received to identify and analyse gaps and weaknesses with the current functioning of the CFR and implementation of the FCA.

## 3. Budget of the CFR

As stated earlier, in order to allow the Police to implement the FCA, SAPS received R290 million during the initial design and implementation phase of the Act to enable them to effectively implement the Act.

Since 2007, the department has spent more than R307 997 860 on the CFR and National IT systems.

The table below indicates the amount spent since 2007 on the CFR and IT systems linked to the CFR.

2007/2008	2008/09	2009/10
121,730,723	84,796,489	101,470,648

People applying for licenses are required to pay licensing fees and the money received is then paid back to National Treasury. During the 2009/10 financial year, the department paid National Treasury an amount of R42.9 million for revenue received through the licensing process.

The CFR does not exercise direct control over finances relating to all components of the Act and the budget for provinces and stations are managed and allocated by provinces and local stations as part of the crime



## Task Team Report on the Implementation of the FCA

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for licenses are required to obtain a competency certificate prior to a license being issued.

One of the biggest challenges for the effective implementation of the Act is the ability of the CFR and provinces to process license applications.

There are currently major backlogs in processing these licenses and this backlog is the major cause of litigation. These backlogs have also resulted in a general lack of public confidence in the ability of SAPS to implement the FCA.

One of the problems experienced by the Task Team is that the figures provided by the CFR are at times contradictory and it has not been possible to accurately verify all the figures provided by the CFR. However, the Task Team has compiled a set of figures based on the information obtained from the CFR. (Most of these figures were as of 30 July 2010).

Listed below is the breakdown of the backlog that currently exists with regard to people who have applied for new firearm licenses under the FCA, people who have applied for competency certificates in terms of the FCA.

NEW FIREARM LICENSES APPLIED FOR UNDER THE FCA					
Before 2007	2007	2008	2009	2010	TOTAL
299	1 286	3 701	39 499	81 300	126 095
COMPETENCY CERTIFICATES APPLIED FOR UNDER THE FCA					
Before 2007	2007	2008	2009	2010	TOTAL
15 550	32 812	76 731	287 493	42 864	455 450

As at 30 July 2010, the backlogs with regard to processing of competency and new firearm licenses indicates that there were 126 095 new licenses and 455 450 competency certificates still to be processed by the CFR.



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The delays in the finalization of renewals is as a result of a number of factors, including forms not being filled-in correctly, delays in the finalization of competency certificates by the CFR and delays in conducting safe inspections.

If one combines the number of applications outstanding related to the renewal of firearms in compliance with the FCA is 804 942 and those outstanding regarding new licenses and competency certificates, the total number of applications outstanding as on 30 July 2010 was 1 387 487.<sup>2</sup>

Some police officials have argued that the renewal of licenses need not be prioritized because, as long as the person has applied for renewal within the specified time-lines, the old green license remain valid along as the applicant has proof of application for renewal.

While the argument of these police officials may allay the fears of some of the public whose licenses have yet to be processed, it also means in effect, the control measures envisioned by government when the FCA was passed are not in effect and are not being implemented.

*The table below is the provincial breakdown of firearm licenses renewals that have yet to be processed by provinces. (figures applicable at 30 July 2010).*

PROVINCE	TOTAL
Eastern Cape	56 697
Free State	62 735
Gauteng	280 094
KwaZulu Natal	101 284
Limpopo	39 895
Mpumalanga	96 116
North West	58 586
Northern Cape	40 758
Western Cape	88 777
<b>TOTAL</b>	<b>804 942</b>



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The table below shows a break down of the dates on which the renewal applications were received.

Before 2007 (4 to 6 years outstanding)	2007 (3 years outstanding)	2008 (2 years outstanding)	2009 (1 year outstanding)	2010	TOTAL
68 618	103 465	159 836	454 115	18 849	804 942

Listed below is a sample of some of the stations visited by the Task team and the backlogs regarding renewals at these stations.

Province	Backlog
Brooklyn	11931
Delmas	394
Linden	6571
Middelburg	196
Nelspruit	6859
Soshanguve	2658
Witbank	3900

#### 4.2 Corruption and Irregular Issuing of license

One of the key objectives of the FCA was to clean up the database of who owned firearms and to be able to ensure more effective control over the issuing of licenses to individuals.

During the assessment, a number of concerning issues were raised regarding irregularities in the issuing of firearms licenses. Some of these irregularities include;

- The issuing of firearm licenses under the old Arms and Ammunition Act. Under the old Act, green firearm licenses were issued and under the new FCA white firearm licenses are issued. In essence, once the FCA came into operation no licenses should have been issued under the old Act and no further green licenses should have been issued. Some of the provinces and CFR still allegedly have equipment that



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- The task team was informed by legal representatives of firearm owners that they were aware of people who had lost firearms and failed to report these losses. To avoid prosecution or sanctions, the owner of the lost weapon licensed the weapon on the new system as still being in his/her possession.
- Firearm owners approached the Task Team in September 2010 and provided information on 12 known cases where firearm licenses had been approved and issued to people. In each instance, the individuals received a license for a firearm for which they had not applied. It would appear that, in most of these cases, the individuals had under the old Act legally possessed these firearms but had subsequently legally disposed of firearm. This would imply that some licenses that were issued were not based on application forms and do not comply with the provisions of the FCA. The exact number of such licenses issued is difficult to accurately estimate because the Task Team relied only on people willing to come forward and report such irregularities. What is also of concern is these licenses were all issued in the period after the assessment begun and it is possible that officials in the CFR in an attempt to hide some of the backlogs were randomly issuing licenses without proper process.

In addition to irregularities in the issuing of firearm licenses, there were also serious allegations made by members of the legal fraternity regarding corruption in the issuing of firearm licenses. The chair of the Task Team met with a police official working with members of the DPCI on cases related to corruption in the CFR and at the provincial level regarding the issuing of licenses. The Police official corroborated some of the allegations made by the members of the legal fraternity. The areas of corruption appear to relate to the following:

- Issuing of licenses to people who legally should have had their licenses refused.
- People having to pay bribes to ensure that their licenses are issued and to avoid delays.
- People being able to license prohibited firearms which are then not accurately listed on the system.

One of factors that contributed to some of these problems and lays the



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In theory, the old system should only be used to draw down information and no person should be able to issue licenses based on the old system. However allegations have been made (and confirmed by SAPS Investigators) that some CFR staff are issuing licenses on the old system and then applying for renewals on the new system and back-dating these renewals to correspond with the deadline set for renewal of licenses need to be seriously investigated. What is of particular concern is that it has been alleged that abuse of the dual systems is being used to license weapons that the new system will not allow licenses for, such as AK-47s.

As long as there is a backlog in the renewal of licenses under the old Arms and Ammunition Act and other issues related to renewal of licenses under the FCA are not resolved, the existence of dual databases and the potential this creates for abuse will constitute a serious risk to the effective implementation of the FCA.

**4.3 Integrity of the databases system**

One of the objectives of the FCA was to ensure that the database system created under the Arms and Ammunition Act was cleaned up and to create a new database under the FCA. The new database was intended to provide an accurate and comprehensive picture of who owns and possesses legal firearms with the correct details regarding such persons and weapons licensed. However, the backlogs in renewal applications coupled with irregularities in the issuing of firearm licenses under the FCA raises serious questions regarding the integrity of the new database system.

**4.4 Court cases lodged against the CFR**

As a result of the backlogs and inefficiencies in the processing of firearms the Department, the National Commissioner and the Minister of Police have been subjects of significant litigation and court applications resulting in significant legal costs and embarrassment to the department, as well as to the Minister and National Commissioner.

While there are certain elements who seek to undermine the FCA and have initiated litigation aimed at undermining the intentions and objectives of the FCA the majority of litigation appears to relate to issues of administration



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not communicated to the applicant, resulting in an unnecessary court order being granted.

The Task Team was also given a document of a court order granted on 21 March 2010 where the court instructed the CFR, the Minister and the National Commissioner to ensure that the applicant's application was processed within 30 days. Since then, there has been not progress and the CFR have not communicated with the applicant. The situation now exists where the applicant's attorneys could now apply for a bench warrant against the National Commissioner or the Minister for contempt of court.

#### 4.5 Independence of the Appeals Board

The Minister of Police appoints the Appeals Board with the intention that the Appeal Board will operate independently of the CFR. However, the relationship between the Appeals Board and that of the CFR has become blurred and the Appeals Board is perceived to be a body that rubber stamps the decisions made by the CFR.

In the High Court case of *George Black vs the Minister of Safety and Security*, the judge in his ruling criticized the Appeals Board for not having the expert knowledge of firearms to enable it to properly rule on cases and that the impression created was that the Appeals Board merely rubber stamped the refusals or decisions of the CFR.

#### 4.6 Renewals under the FCA

FCA states that competency and firearm licenses should be renewed every five years if the weapon is licensed for self-defense purposes. For a person to be licensed to possess a restricted firearm for self-defense purposes, such a license must be renewed every two years. A license to possess a firearm for occasional or dedicated hunting or for sport shooting, the renewal period is every 10 years. All competency certificates are to be renewed every five years.

The FCA or Regulations do not describe processes or procedures to be followed in respect of re-application for competency, other than to state that a competency certificate lapses after five years (Section 10(2) of the Act).



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*The table below lists the number of competency certificates which will come up for renewal over the next five years*

2009	2010	2011	2012	2013	2014
8	76 294	76 305	102 634	126 634	111 578

The area relating to the issue of renewal of competency certificates needs to be addressed as a matter of urgency in order to ensure compliance with the provisions of the FCA. The CFR needs to have a plan in place to address those persons who will have to renew their licenses and competencies in the next three years.

In addition to competency certificates that need to be renewed, there are also firearm licenses that will need to be renewed over the next five years in compliance with the FCA.

*The table below indicates the anticipated license renewals that will need to be dealt with during the next five years.*

2010	2011	2012	2013	2014
2 214	27 540	67 273	68 956	48 565

The process around these renewals also needs to be properly communicated to gun owners. There is currently considerable confusion emanating from mixed messages being sent from the CFR.

#### 4.7 South African Hunters & Game Conservation Association vs the Minister of Safety and Security

In June 2009 the SA Hunters and Game Conservation Association (SAHGCA) was granted an Interim relief order against the Minister of Safety and Security (Minister of Police) in the North Gauteng High Court. The Interim order in essence negates the obligation for firearm owners who possess valid licenses under the old Arms and Ammunition Act to re-license their firearms under the new FCA within the timelines specified in the transitional provisions of the FCA.



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issued a statement supporting the Firearm Amnesty and supporting Minister's call for all people who had missed the cut off date for relicensing their weapons under the new FCA to make use of the Amnesty period to apply for licenses under the FCA.

A series of settlement discussions were then held between the SAHGCA legal representatives and the department's legal representatives. A settlement agreement was drafted which in principle both sides agreed to. The settlement agreement would see the SAHGCA discharge the order and thus allow the implementation of the FCA requiring all persons with licenses issued under the old Act to apply for new licenses under the FCA. However the stumbling block in resolving this matter has been the concerns the SAHGCA have regarding the efficiencies and irregularities in the manner in which the CFR is handling licensing processes. Discussion held with SAHGCA would indicate that SAHGCA is cognisant of the fact that the problems in the CFR cannot be resolved overnight but would want to see that there is a process being put in place to resolve problems in the functioning the CFR.

The effective implementation of the FCA is dependent on this case being resolved in favour of the order being overturned or discharged. There are currently two options available to the department and the Minister:

- 1) Our department's legal representatives can go back to court and re-argue the matter and attempt to have the interim order over-turned. In such an event, the opposing counsel would argue to have the order made permanent.

There were serious problems with the manner in which the initial case involving the SAHGCA was handled from the department's side. The advocate representing the department in this matter has also pointed out serious flaws in the arguments used to underpin the interim order granted. However the risk in this approach is that the current backlogs and administrative problems in the CFR could jeopardise our chances to successfully argue the case.

- 2) The department's legal representatives negotiate a settlement of the case and get the interim order discharged through mutual agreement.



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The media and gun owners have frequently used the figure of between 800 000 and 1 million people who failed to renew their licenses under the FCA. However the figure listed on the CFR database is estimated to be between 60 000 and 100 000. These figures appear to be corroborated by some of the gun owners' legal representatives.

Whichever way the matter with SAHGCA is resolved, there will need to be a contingency plan in place to deal with those potential applications to ensure this does not cause further backlog.

**4.8 Legislative issues**

Amendments to the FCA were finalized in 2007 and to ensure these amendments took effect regulations were required to be finalized and proclaimed. The regulations were published for comments and, while comments were received more than 12 months ago, these regulations are yet to be finalized.

On the instruction of the Minister, the Civilian Secretariat for Police is now in the process of finalizing the regulations but certain problems in the Amendment Act have been identified that have delayed the finalization of these regulations. The draft Regulations are cumbersome and contradictory therefore redrafting is required to ensure alignment with the Amendment Act, 2006.

Considerable work has now been done and it is now envisaged that the final draft of the regulations will be ready for approval by the Minister during November 2010.

**4.9 Support for the FCA**

Lessons from countries like Canada, who have successfully implemented firearms controls, point to the success in implementing gun controls relying, in part, on securing the buy-in and support of key role players including large sections of gun owners.

In South Africa there are two types of gun owner associations, those that



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**5 Summary of key problems identified during the assessment which give rise to the challenges**

The following section summarizes some of the key problems identified by the Task team which give rise to the challenges being experienced in the implementation of the FCA. The section only provides a broad summary and the actual details of the problems are contained in Annexure A – Situational Analysis of the CFR.

**5.2 Management and Organizational Design**

One of the key problems identified by the assessment is the dual functions of the many of the officials based at the CFR and those appointed as DFOs. They all (with the exception of Gauteng) fall under FLASH, which deals with Firearms, Liquor and Second-Hand Goods. This means that their focus is on all three of these areas and they are not able to focus exclusively on the FCA and firearms-related matters.

Additionally, a number of the DFOs and their resources at a provincial and station level are roped into additional general crime prevention work thus affecting their ability to function as DFOs.

The organizational design of the CFR is over complicated and does not necessarily speak to the requirement of the Act and regulations. Staff at the CFR and provinces who were interviewed did not understand or could not explain the organisational structure. Roles and responsibilities also appear to change on an ad-hoc basis largely due to reactive responses by senior management to problems. The assignment of authority, roles and responsibility are also blurred and unstructured. Junior officers have functions that are not accessible to their supervisors. This practice, together with a lack of supervision, creates a serious security risk. In addition, the organizational plan does not support proper planning. There appears to be a lack of strategic vision resulting in poor planning, and fire-fighting to resolve problems. Ultimately there appears to be a lack of capacity to formally plan and address problems.

The day-to-day operations of the organizations are conducted in a more informal than a formal and structured manner.



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ISM and CRC are integral to the successful implementation of the FCA but they do not appear to have been drawn into the CFR planning and this results in ad-hoc and unplanned requests being made to these two entities.

The SAPS has five key strategic interventions with regard to firearm control as outlined in their five-year strategic plan, but these are not accompanied by an effective and detailed implementation plan.

When the Act finally came into operation, SAPS presented an implementation plan to Parliament in 2004 and this plan is yet to be fully implemented.

Instructions and directives emanating from the CFR are at times confusing and poorly drafted and communicated. (See page 41 and 42 – Annexure A Situational Analysis). In addition there appear to be no consequences for any failure to implement directives or instructions. The result is that these are often treated as suggestions rather than directives or instructions.

The CFR has a policy and legislative unit as required by the Act. However, this unit is ineffective and as a result there is a lack of continuous research and policy development.

There is no effective organizational risk management plan in place and this places the implementation of the FCA at risk.

**5.3 Communication**

One of the key problems affecting the implementation of the FCA is poor communication. This relates to both internal and external communication.

Internal communication information management lines between the CFR and its provincial components are unclear, poor, sporadic, inadequate and sometimes confusing to the intended recipients.

The same applies to external communication. There is no properly structured information sharing strategy that is intended to communicate with members of the public. Instead of communicating requirements for licensing to members of the public, the CFR has rather chosen to keep the public in the



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The inability of the CFR to communicate with members of the public and stakeholders has resulted in serious frustrations. In some cases members of the public who have received no communication from the CFR regarding applications assume these applications are lost and submit duplicate application thereby further clogging up the application system.

The CFR has recently established a call centre in order to improve communications. However call takers at the Call Centre are not capacitated and trained to provide applicants with correct and accurate information. There is also a lack of data integrity on the IT systems supporting the call takers and no proper records kept with regard to the nature of the queries received. The Call Centre, which should serve as the front desk as well as the image of the CFR, is neither properly functional nor empowered with current information and therefore is unable to play its role effectively.

**5.4 Complication of processes, discretion and disorganization**

The Act itself, as explained by the then Minister of Safety and Security, is not that complicated. However there has been a tendency by the head of the CFR to over complicate processes. Some sections of the application forms, for example, do not speak to the Act and have been over complicated and could be better designed. The forms need to be redesigned to be less complicated and properly aligned to the Act.

The systems in place at the CFR are completely dysfunctional and rather than assisting in streamlining the process, they serve to create blockages and delays.

There is a serious lack of clarity regarding the processes to be followed in applying for licenses and competencies. The forms make provision for the applicant to write a brief motivation on the actual forms themselves. However, when some applicants do not submit a further detailed motivation (not specified on the forms), the application is denied due to lack of motivation. Equally when some applicants submit detailed application alongside the form the local DFO informs them it is not necessary and removes the application from the form before submitting it to the CFR.

Despite the complex systems established and significant resources provided



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**5.5 IT systems and information management**

A significant portion of the budget allocated to the implementation of the FCA is allocated to IT. In the last three years more than 97 million has been spent on IT alone. *(This does not include the amount spent in the previous years or the amount spent in the lead up to the Act becoming operational).*

However despite this investment in IT, there is a lack of understanding by the CFR of the value derived from effective management of information.

- The IT systems as developed are not effectively utilized by the staff at the CFR and much of the work done by the CFR is done manually. The manual statistics and the statistics drawn from the system don't correspond. Staff at the CFR claim the system statistics do not give an accurate picture and have therefore resorted to using manual statistics.
- IT systems do not always speak to the actual requirements of the Act and regulations and may need to be redesigned to ensure applicability.
- Certain information is not readily available through the IT system and access to such information requires ISM and SITA to develop a programme (at additional cost) in order to obtain what should be available information.
- Each employee of the CFR who has a responsibility to process information into the electronic database, must *only* have access to the electronic data system that relates to his or her job description. All manual tasks must be eradicated.
- It does not make sense to have duplicate computer systems to track, plan, store and evaluate the performance of the CFR.
- IT equipment needs to be properly updated and maintained to avoid situations where printers used for printing licenses are not working and there are unnecessary delays in the printing of licenses. At the time of the assessment Witbank DFO offices had been waiting more than two months for ISM to facilitate connectivity. In both Gauteng and Mpumalanga problems with their printing equipment had not been resolved for more than six month resulting in all renewed licenses having to be sent to the CFR for printing.





POLITY

PUBLISHED: 30 MAY 2013

## SA: Nathi Mthethwa: Address by the Minister of Police, on the occasion of the SAPS and IPID Budget Vote, Parliament, Cape Town (30/05/2013)

Honourable Speaker;  
Deputy President of the Republic, Honourable K.P. Motlanthe;  
Ministers and Deputy Ministers present;  
Deputy Minister of Police, Ms M.M. Sotyru;  
Honourable Members of Parliament;  
Acting Chairperson of the Portfolio Committee on Police, Ms A. van Wyk;  
MECs responsible for policing present;  
National Commissioner of the Police, General M.V. Phiyega;  
All DGs of the Justice Crime Prevention and Security Cluster present;  
SAPS Senior Management present;  
Heads of entities: Civilian Secretariat for Police, IPID and PSIRA;  
Comrades and Friends;  
All strategic partners of SAPS in the fight against crime;  
Fellow South Africans;

In 2009 the African National Congress (ANC) unveiled a manifesto which resonated well with the aspirations of the multitudes of South Africans. In this manifesto the movement prioritized five key areas for the term of office of its administration.

<http://www.polity.org.za/print-version/sa-nathi-mthethwa-address-by-the-minister-of-police-n-the-ocass...> 2015/05/29



the life of the ANC and dates back to the adoption of the Freedom Charter in the 1950s.

This policy lodestar of the ANC proclaimed 'there shall be peace, security and comfort.' Our commitment in the fight against crime and corruption focuses among others on:

- Combating violent crimes against women, children and the elderly.
- Fighting the root causes of crime.
- Overhauling the criminal justice system to enable it to fight crime and corruption.
- Actively combating serious and violent crimes by being tougher on criminals and organized syndicates.
- Being true to our community policing philosophy by organizing all sections of society to be our partners in the fight against crime.

Today, we stand before this august House to share with Parliament and with millions of law-abiding citizens on the progress of our crime-fighting programmes. We are presenting the South African Police Service (SAPS) and IPID Budget Vote for the 2013/14 financial year, which we have aptly themed: 2013 is the Year of the Police Station: Improving Frontline Services.

Honourable Members,

South Africa's transition from apartheid to democracy has been underpinned by the recognition that safety is a fundamental human right. Safety is regarded as a precondition for human development and enhancing productivity. Where citizens do not feel safe and live in fear, their ability to contribute to the country's overall development is greatly compromised.

The National Development Plan (NDP): Vision 2030 must be realized in a safe SA

The NDP, which plots the desired developmental trajectory for the country thus recognizes the importance of creating an environment that is conducive to citizens pursuing their personal goals, and to take part in social and economic activity. This places a direct mandate on the SAPS to ensure that we intensify our efforts in pursuit of public safety.

The levels of crime continue to drop and contrary to the current discourse, more people are beginning to feel safe. As we reflect on the progress over a 3-year period of our achievements, we stand before this house encouraged by our collective efforts. The National Crime Statistics indicate amongst others, that:

- Murder - This crime decreased by 17.2% during the past three years.
- Attempted Murder - remarkably decreased by 21.8% during the past three years.
- Bank robberies - we made tremendous progress with a 64.2% decrease over the past three years.
- Cash-in-transit - we have seen significant decreases of 53.6% over the past three years
- Robbery at Residential Premises (House) - decreased by 12.5% during the past three years.
- Sexual Offences - Over the past three years, overall sexual offences decreased by 11.9%. Rape in particular decreased by 2.9% during the same period.
- Carjacking - remarkably decreased during the past three financial years by 38.9%
- Stock-theft - This category of crime showed a marginal decrease of 0.8% during the past three years.

Furthermore, according to the Victims of Crime Survey (VOCS) 2012 there is an increase of 8% in the public appreciation of how government is doing in reducing crime levels when compared to five years ago (32% in November 2007 to 40% in November 2012).

The VOCS shows that 38% believed that the level of violent crime had decreased in their area of residence compared to 33% who said that crime had increased, 29% believed that crime had stayed the same during the period 2009 to 2011.

Crimes against Women, Children and the Elderly remain a priority for the SAPS

Gender-based violence and domestic violence not only affect the most vulnerable in society but can also contribute to a mentality that violence is an acceptable and valid means of self-assertion. Protection of communities must also be central to strategies aimed at reducing incidences of gender-based violence.

A victim-oriented police service is thus an important part of the overall criminal justice response to crimes against vulnerable groups in society. This approach will also encourage victims to report incidents of crime and ultimately contribute to building confidence and trust in the police, which is in line with our theme of 2013 is the Year of the Police Station: Improving Frontline Services. It is against this background that in 2009, I directed that police management re-introduce the Family Violence Child Protection and Sexual Offences (FCS) units.

Honourable Members,

I am pleased to report before this august house, the following successes: since the reintroduction of the FCS units, based on capacity building and investment in the environment, remarkable increases in life sentences continue to be experienced. There were 1 194 life sentences secured during the past three years, that is, 306 in 2010/2011; 389 in 2011/2012 and 499 in 2012/2013.

Nationally, we now have 176 established FCS units attached to all police clusters within SAPS. In support of the investigation of such crimes, 2 139 Forensic Social Workers were appointed. These include 79 Forensic Social Workers appointed to assist in cases of child sexual abuse by means of conducting assessments, compiling court reports and providing expert testimony in court as a means to strengthen our cases towards increasing conviction rates.

Since the re-establishment of the FCS units there were a combined 36 225 years imprisonments. We are joined at



this Budget Vote by the top 7 best investigators for the 2012/13 financial year; please join me in congratulating the following officers:

1. Lieutenant LT Monene (Limpopo) who secured 11 life sentences.
2. Constable AE Mathevula (Limpopo) who secured 5 life sentences
3. Warrant Officer ND Ligege (Limpopo) who secured 5 life sentences.
4. Constable C Mokone (North West) who secured 4 life sentences.
5. Constable NR Bokolo (Eastern Cape) who secured 4 life sentences
6. Warrant Officer OE Monnamme (North West) who secured 2 life sentences.
7. Constable RR Visagie (Northern Cape) who secured 2 life sentences.

When we refer to life sentences secured by these officers, amongst these we include instances where some perpetrators are serving jail terms for committing multiple sentences as individuals, more especially those who are serial rapists or have committed more than one crime.

We currently have 919 Victim Friendly Facilities rendering victim support services and intend to establish these rooms in all stations during 2013/2014. However, the main focus is on the establishment of a dedicated capacity and the requisite soft skills to enhance victim friendly services in all facilities.

Directorate for Priority Crime Investigations (The Hawks) successes

Following the Glenister court case, we have fast-tracked the implementation of the decision through the approval of the South African Police Service Amendment Act. In March 2013, I tabled policy guidelines in this Parliament and we have revised the mandate of the DPCI as well as the types of crime that will be investigated by this important entity.

• **Drug-related operations**

During the last two years 669 arrests were effected (335 in 2011/12 and 334 in 2012/13). About 298 804.847 kg of drugs were confiscated with a monetary value of R95 million. We also commend the Hawks for closing a total of 41 laboratories during the year under review.

• **Precious Metals and Diamond**

During the 2012/13 financial year the number of arrested individuals for the illegal purchase, theft and possession of uncut diamonds and unwrought precious metals was 198, additional to 314 arrests in 2011/12. From the number of arrested persons 71 were convicted.

• **Endangered species and rhino poaching**

During the reporting period under review, 104 persons were arrested and 49 successfully convicted for crimes related to species such as abalone and rhino poaching.

• **Organized Violent Crimes**

The number of arrested individuals for the reporting year, was 523 and 297 convictions were successfully secured.

These successes were not achieved by the Hawks operating alone but through an integrated approach involving the Crime Intelligence and Detective Services. This working-together approach is vital because organized crime itself is becoming sophisticated and varies widely from country to country.

Strengthening Crime Intelligence and Detective capacity

Last year when we reported on the Budget Vote, we reported about the instability of the Crime Intelligence division with the suspension of its head and other senior managers.

We have now begun with stabilizing this unit through capacitating gatherers in provinces at cluster level, increasing vetting personnel by employing more investigators as well as prioritizing the vetting of procurement personnel in SAPS – in line with JCPS Cluster resolutions to reduce corruption.

We are pleased to report that Crime Intelligence conducted over 37 000 network operations which led to the arrest of 10 607 individuals, and the recovery of goods to a value of R633 million for the past financial year.

**Continuous improvement in our Forensic Science Laboratories**

It is common knowledge that we experienced serious backlogs within our Forensic Services and that is why through intervention, including change in management, we began to realize some improvements and a positive turnaround. The reduction of backlogs in the Forensic Science Laboratories (FSL) is placed high on the strategic agenda of the department. To this end, during the 2012/13 financial year, Forensic Services reduced backlogs in the various disciplines to ensure the processing of cases through the criminal justice system.

The number of exhibits received by the laboratories increased by 19%, from 320 729 in 2011/12 to 381 699 in 2012/13. More than ever before, our Forensic Services are accessible and responsive to the investigative needs and the criminal justice system requirements. In this regard, the further decentralization of Forensic Services to the various provinces has been realized.

The deployment of advanced technology and additional 710 Forensic Analysts and Crime Scene experts will be realized by the end of this financial year. The department has in the absence of legislative obligations, resolved to embark on a process to accredit related laboratory processes for compliance with international standards.

On 18 January 2013, the President of the Republic signed into law the Criminal Law (Forensic Procedure) Amendment Act, Act 6 of 2010 which regulates the use of fingerprints in combating crime for implementation by the Department.

Two days ago, we presented to Parliament, the DNA Database Bill. This Bill was preceded by a study tour undertaken to capture best practices internationally which led to the development and finalization of a policy on the establishment



and administration of a National DNA database.

Successes based on the declaration of 2012 as the Year of the Detective

During our Budget Vote last year, we declared 2012 as the Year of the Detective. During the year under review we established 338 Detective Service Centers to improve reaction time, 24hour service, speedy apprehension of suspects, and screening of dockets.

Overall, our detectives secured 826 life sentences during 2012/2013 (264 for murder, 499 for rape and 63 for robbery aggravated). As an effort to enhance quality assurance, the current 142 Detective Court Case Officers that are placed at selected courts across the country are intended to improve quality of work to and from court, secure availability of dockets and liaise with detective commanders and prosecutors to unblock possible impediments.

Failure to provide feedback to complainants during the investigation process remains the highest generator of complaints against the police, particularly detectives. Written responses and SMS feedback to complainants are now being utilized in this regard and will be emphasized to ensure continuous communication.

Deepening partnership with various partners

From the time we were given the task of leading this portfolio, we have forged partnerships with various partners, some of whom are present at this Budget Vote. South African Banking Risk Information Centre (SABRIC) is one such important partner in the fight against crime, particularly when dealing with violent crime. Through their industry expertise they have been able to deepen and share their skills and expertise within the banking sector by setting up initiatives to combat ATM crime, cheque fraud and crime in business. Business Against Crime South Africa (BACSA) is another vital partner because the business sector serves as an important role-player in government's goal of effectively dealing with crime. We appreciate BACSA's continued support, particularly through their collaborative and effective crime fighting programmes.

We continue to work with Community Policing Forums (CPFs) and have been engaging them on a policy framework that looks at CPFs strengthening their oversight role, as well as ensuring greater participation by communities. We have also been working with provincial departments of Community Safety and Liaison, as well as other departments within the Criminal Justice System, on the implementation of Community Safety Forums.

Over the last two years we have on a consistent basis, been engaging with different role-players in the rural areas, including both trade unions and farmers. During this year we have also concentrated on engaging civic organizations, and this approach, coupled with regular engagements is helping us in entrenching our partnership approach.

Improving territorial integrity through effective Borderline Policing

Based on the 2009 Cabinet decision to return the functions of borderline control back to the SANDF, all borderline functions were handed over except for 2 borderline bases - Upper Tukela and Himeville. These bases patrol the RSA and Lesotho borderline.

From 1 April 2012 to 31 March 2013 a total number of 3 880 planned crime prevention and combating actions were conducted to enhance national security and territorial integrity.

Additionally, 3 578 roadblocks, 68 633 vehicle patrols, 285 air patrols, 109 454 foot patrols, 910 borderline patrols, 2 620 vessel patrols and 12 487 perimeter inspections were also conducted. Illicit drug cases at airports have decreased slightly due to integrated policing strategies and profiling of suspects.

Introducing and reviewing of various legislations to support policing

Policing in democratic societies operates in a space between their constitutional framework and the legal framework that defines how they must operate.

To ensure an effective service, the police must understand their role and function in society. Police action must always be motivated by sound knowledge of police purpose and involve constant application of the law.

It is for this reason that over the last financial year we introduced before Parliament the following legislations:

- The South African Police Services Amendment Act of 2013 (which sought to enhance the role of the DPCI and to ensure its alignment with the Constitutional Court ruling)
- The Dangerous Weapons Bill
- The Criminal (Forensic Procedure) Amendment Bill which is currently before Parliament

In the coming year we are hoping to finalise the following legislations:

- The Private Security Industry Regulatory Amendment Bill
- The South African Police Service Amendment Bill, will address changes in policing, align the existing SAPS Act with the Constitution and ensure adherence to the revised White Paper on Policing.

Last year we began work on a policy which is aimed at clarifying the role we expect the police to play when carrying out their duties. This policy will speak to all aspects of policing including supervision, training, and the appropriate equipment required to carry out effective policing.

Essentially, this calls for what I have emphasized on many occasions, that we need a continuous de-education of unwanted old practices and re-education of the kind of police officers we envisage.



Civilian Secretariat for Police now an effective oversight structure

In 2009, I instructed that the Civilian Secretariat for Police be restructured in order for it to be able to effectively perform its role and functions as referred to in Section 206 of the Constitution. During the 2011/12 financial year the Civilian Secretariat for Police Bill was passed into an Act. In December 2011 the Act was assented to by the President of the Republic.

Policies developed by the Civilian Secretariat for Police over the last year include:

- Green Paper on Policing
- Policy document on the establishment of Community Safety Forums
- Policy on Reservists
- Policy on the establishment of a DNA Database

National Key Points Act to be reviewed

In 2007 a draft National Key Points Bill was developed and progressed as far as the National Economic Development and Labour Council (NEDLAC) process. At this juncture certain issues prevented the processing of this Bill.

Earlier this year I requested my legal team to relook at this Bill, to begin the process of refining it and introducing it in Parliament. We are now re-aligning the National Key Points Act with the Constitution and other pieces of legislation.

In addition to this, in terms of Section 6 (1) of the National Key Points, I have appointed an Advisory Committee on National Key Points to assist me in evaluating, auditing and assessing the desirability of all National Key Points, to determine how these should be aligned to Constitutional prescripts.

This Committee will be led by Advocate Hamilton Maenetje (external legal Counsel), a representative from the Department of Justice and Constitutional Development, as well as the Civilian Secretariat for Police.

We expect the first part of their work to be completed by the end of July this year. The Bill will then be introduced to Parliament before the end of this financial year.

Policing public service delivery protests better

The adoption of the NDP as the key developmental policy framework requires policing to be particularly effective. However, recently we witnessed an increase in sporadic acts of lawlessness and violent protests, which have potential to interrupt our developmental plans.

The Constitution guarantees everyone a right to peaceful and unarmed demonstration. While we respect this Constitutional right, we will not hesitate to act against individuals whose conduct undermines the rights of others. It should also be noted that while the Constitution also provides for checks and balances on police powers and protection of the rights of citizens, it does not prevent the police from vigorously fighting crime.

As a result of the policy on public order policing which I introduced in 2011, we are now standardizing the training of our public order policing unit, as well as enhancing its human and physical resource capacities.

We are pleased to report to South Africans that during the 2012/13 financial year, 12 399 crowd-related incidents were responded to and successfully stabilised, including 10 517 peaceful incidents such as assemblies, gatherings and meetings. Unfortunately, of these incidents, 1 882 were violent incidents and we effected 3 680 arrests.

We have now introduced a mandatory Public Order Policing training curriculum that is intended for new recruits as a means to develop a support base for the first line of response to public order incidents.

Challenges of the day facing the SAPS

The transformation of the SAPS remains paramount in our efforts to fight crime and criminality. In transforming the police, we had to strengthen our civilian oversight bodies, deepen our relationship with communities, build partnerships with civil society, labour and business, and contribute to the observance of the culture of human rights. Honourable Members,

Over the past months some of our officers have made headlines, dominated discussions at homes, workplaces, taxi ranks and schools, including in this very august House of Parliament – for the wrong reasons.

We acknowledge the embarrassment such conduct has caused to the reputation of the SAPS. Such unwanted misconduct borders on brutality and for this reason we have emphasized to police management to press criminal charges against those individuals. This they have done. Our system of governance is based on human rights and we have no intention of diverting from this. IPID has also taken the lead in investigating such cases and to charge those responsible.

Our firm stance is that police are empowered with powers to arrest any person they suspect of wrongdoing. However if there are no checks-and-balances such powers are likely to be abused by some.

Training and Recruitment

In January this year, I convened the first SAPS Top 1500 meeting with all the Cluster and Station Commanders.



This will be an annual leadership engagement platform for deliberating on issues of policing nationally. This initiative is intended to ensure that station, cluster, provincial and national management collectively identify and address blockages to service delivery.

We are revisiting the current SAPS Recruitment Strategy to encapsulate the whole continuum from recruitment to retirement in order to determine and put more emphasis on career-pathing of members to ensure staff retention and to minimize attrition.

One of the ideas that emanated from this gathering was a need to ensure that recruitment for basic police training continues to be conducted in consultation with community structures. We are now also enhancing an initiative of publishing the names of potential intakes for public comment. Lastly, vetting and reference checking continues to be conducted for new intakes as a means to reduce the element of corruption and criminality.

Outcomes of a SAPS Criminal Audit to be announced in due course

Two years ago I tasked the police management working together with the Civilian Secretariat for Police to conduct an audit of all SAPS members, to get a sense precisely of who these members are. Part of the delay in completing this audit was mainly around certain legalities which we had to adhere to, but we are now determined to finalize this matter.

The audit is nearly finalized and I will be making a public pronouncement on the audit outcomes in due course. This is propelled by the conduct which suggests criminality from within the police.

Supporting and improving psychological services for SAPS

Policing is a difficult duty. Our officers operate under strenuous conditions, facing some of the most dangerous criminals on a daily basis, the nature of crime being unique and violent.

As part of our intervention, we have an Employee Health and Wellness (EHW) programme, which is freely-available for all members. Whilst some members have utilized such programmes, sadly, we still have some myopic perceptions that going for counseling is considered a sign of weakness. We dispel such misconceptions because they are destroying and negatively affecting our members.

- EHW comprises of qualified, experienced and registered Psychologists, Social Workers and Chaplains.
- There are clearly outlined referral processes between the different professionals, EHW and medical schemes, guided by the needs of employees and their immediate families.
- Members have access to a 24-hour call centre services where one-on-one telephone counselling and individual trauma debriefing is done.

I have already through a number of different forums emphasised the need to have a concerted focus on the psychological welfare of SAPS officials and we have begun engaging external role players with a view to assisting us in this regard. However, the violent nature of crime in South Africa and advanced criminal activities requires further research in addressing police psychological needs.

Firearm Administration and Controls

The Firearms Control Act is a crucial piece of legislation and it is important that we all understand the policy that underpins this legislation in a country that faces high levels of violent crime, much of which involves the use of firearms.

There have been people who have sought to challenge our policies and the basis of this legislation, and we remain resolute in our commitment to stand our ground on this matter. Where we are taken to court, as was shown in the Justice Alliance of South Africa matter, which went all the way to the Constitutional Court, we will coherently defend our policies.

But our commitment to the legislation must also translate into how we implement this legislation through the Central Firearms Registry. In this regard we believe that the registry has to a large extent dealt with the backlog in firearm applications. We however need to keep our focus not only on the backlogs but also improvements across all aspects of our firearms control systems.

Inquiry into the alleged unscrupulous firearms dealers  
Honourable Members,

Over the past few months, concerns have been raised about the practices of certain unscrupulous firearms dealers, who are not complying with the provisions of the Firearms Control Act, 2000 (Act No. 60 of 2000).

Last week, I announced Ms Soraya Hassim, SC and Advocate Rams Ramashia, to head an inquiry that is currently investigating these allegations because if indeed they are proven true, these could negatively impact our crime-reduction efforts. We cannot allow this to happen.

Within the next six weeks they will complete their investigation and will provide me with a comprehensive report of their findings, including recommendations. I will then publicly announce the findings.

Effective implementation of the Rural Safety Strategy

Rural safety remains a priority of government. Focused interventions to reduce serious crimes in rural areas have been enhanced, particularly of stock-theft and border control.



The implementation of the Rural Safety Strategy, which incorporates amongst others, targeted planning and resourcing of policing interventions, will be completed by 2014.

We have also begun identifying and developing strategic partnerships with safety stakeholders in rural areas, as well as enhanced service delivery, by utilizing reservists to man our borders, and conduct intelligence-driven operations.

Strengthened oversight on those who police, the police

As we speak, the Independent Police Investigative Directorate (IPID) Act No. 1 of 2011 has been in operation for just over a year. During that time, we have seen a number of important milestones in the work of the IPID.

We remain committed to cleaning up the police service through strong internal oversight, which police management must exercise. Equally, through strong external oversight in the form of the IPID, we have been able to arrest those whose actions shame our badges and uniforms. This was evident in the swift actions taken by the IPID and SAPS in recent incidents. This all demonstrates our resoluteness in dealing with matters of police criminality.

IPID has identified systemic corruption as one of its priorities for the short to medium term. We believe that the IPID will deal a deeper blow to police criminality by being proactive rather than being reactive. This will ensure that police officers, who commit the crimes identified in the IPID Act, are prosecuted effectively in the courts.

No direct linkage to number of deaths in custody to introduction of ranks

We have noted alleged reports around the number of deaths in custody or as a result of police action and the linkage to the introduction of military ranks in 2009.

Let us utilize this occasion to highlight that the number of deaths in police custody does not necessarily mean that police were directly responsible of these deaths. In some cases the deaths could have been as a result of a shootout during cash-in-transit robberies. Furthermore, in some instances it includes natural deaths whilst suspects are in police custody.

We have looked at IPID figures and cannot correlate the figures to the introduction of military ranks. In 2008/09, before the rank structure was introduced, the number of incidents recorded by IPID increased by 15% but the following three years saw a decrease of 21.1%. Therefore whilst we remain concerned about any loss of life irrespective of whatever circumstances, there is no evidence to link this to the introduction of military ranks.

Private Security must be better and effectively regulated

Honourable Members,

The number of private security guards registered is 1, 250 000. It is also estimated that of the guards registered 353 000 are active within the industry. This means the number of private security guards operating outstrips the combined number of both the SAPS and SANDF.

According to PSIRA it is further estimated that between 15 000 and 20 000 new members join the private security industry each month. However not all companies and private security guards register with PSIRA as required by law. Many companies and security guards attempt to operate under the radar and unlawfully.

The growth of the private security industry is not unique to South Africa. Internationally, the private security industry has grown significantly over the last two decades. However the growth of the South African private security industry has outstripped other countries and as a percentage of our GDP South Africa, has the largest private security industry in the world.

Historically the private security industry was broken down into specific areas or categories of security services (such as guarding, armed response, private investigations etc). However over the last decade the industry has diversified and many companies are now providing a wide range of services cutting across the different categories. The result of this diversification has also been that the lines between private security, private intelligence and private military have become vague and blurred.

The South African private security industry is increasingly performing functions which used to be the sole preserve of the police. This has, and will continue to have a serious influence on the functioning of the criminal justice system as a whole.

The above has resulted in most countries around the world focusing more attention on the regulation of this industry, and even the United Nations Commission on Crime Prevention and Criminal Justice has begun to place more focus on this area and encouraged member states to review, evaluate and revise existing regulation of the industry.

It is against this background that we have set ourselves a goal of an effective regulation of this industry.

Conclusion

Honourable Members,

Scholars across the spectrum recognize that social systems are founded on definite historical origins. If the saying 'out of nothing, nothing comes' is true, then it must follow that the future is formed and derive its first impulse in the



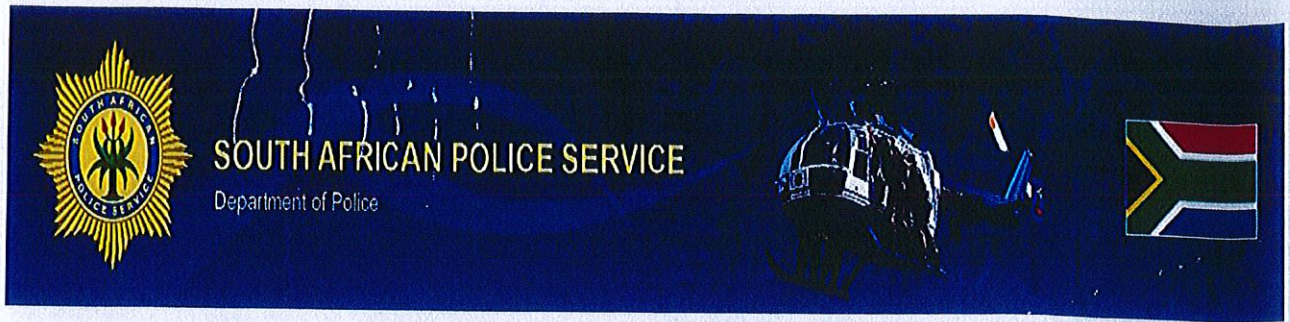
womb of the present.

The world is beginning to look at us and our continent, not so much for our lack of capacity, but for our capacity to do things in a way that makes everyone proud. Conditions have emerged where the world wants to do business with us. Policing for the future must be guided by the understanding that the crime landscape will continuously evolve. This will require the SAPS to remain innovative and adapt its policing approaches to respond to this changing environment.

The unity of citizens on the question of crime should act as a source of great strength to us. Today there can be no doubt about the determination of the overwhelming majority of the citizens of this country to take concerted action to help us reduce crime.

I thank you.





**Cape Town, 25 March 2015**

Programme Director,  
Minister of Police, Mr. Nathi Nhleko,  
Chairperson of the Portfolio Committee on Police, Mr. Francois Beukman,  
All Members of Parliament present,  
National Commissioner of Police, General Phiyega,  
All SAPS Top Management,  
All Heads of SAPS Entities (Secretariat, IPID and PSIRA),  
All Contributors and Delegates,  
Ladies and Gentlemen,

I sincerely thank you Chairperson of Portfolio Committee on Police, Cde. Beukman, for providing this important platform to discuss and deliberate on such a contentious issue: the firearms.

I am referring this Summit as contentious because, many people thought that Government wanted to infringe upon or compromise the law-abiding citizens' rights to defend themselves, when the Firearms Control Act was first introduced in 2000. And this was, and is still, NOT the case.

But, we all know that having a gun does not guarantee one's safety. And, for once I align myself with Gun-Free South Africa when they said as far back as 1999 that, "guns are not an effective deterrent".

In the same vein, having legislation on gun control will not prevent future, armed robberies, murders, violence at schools, and massacres.

However, having initiatives like this Summit continue to give us hope as the leadership of this Department.

Seeing different progressive stakeholders here today, pulling together to ensure that the Department of Police gets the best advises on how to formulate, amend and implement legislations on gun control, is comforting to say the least.

I have looked at all the topics that are covered in this two-day Summit; and although all are extremely critical, one for me is fundamental: "Implementing of Firearms Control Act, 2002", which had been, rightly allocated to the National Commissioner of Police.

I would thus like to add two aspects on the implementation of the Act, which I regard as enablers for the effective implementation of this Act, as amended.

The first enabler is the location of the Firearms Control Act and its implementation, within multi-sectoral/inter- disciplinary initiatives. We cannot accept campaigns on gun control as a single-issue campaign.

Organizing around a single issue defies the objective of Government to make this country developmental for a better life for all. These campaigns must be embedded around all other key socio-economic issues faced by the majority of this country.



An apparent link does exist between social problems such as unemployment, poverty, inequity, weakened family bonds, lack of moral regeneration, and the attempt by people to escape these harsh realities into the world of violent crimes that include, armed robbery, substance abuse and dealership, gangsterism, and murder.

Therefore, I would plead with the learned delegates today, to also look at the concept of social cohesion and moral regeneration to enable the Firearms Control Act to yield inclusive social justice system.

For instance, the firearm free-zones, should be revived and be emphasized upon (just like it is done on no- smoking zones) at homes, schools, shebeens and all public places, including the parks and resorts.

The second enabler that I would like to emphasize on is the appropriate budget to implement this amended legislation.

The budget system is the single most important ingredient of public service delivery. Proper budgeting is the most important tool for translating government strategic plans and priorities into public services.

I am very sad to say today that, with the billions that the SAPS gets every year from Government since 1994, we are still plagued with the same problem of a Central Firearms Registry (CFR) that is dysfunctional and in constant decay!

There are further planned amendments to some of the sections of the Firearms Control Act, which have already been sent to Cabinet for consideration. And the Cabinet was understandably very concerned with the state of readiness of the CFR to effectively implement the proposed amendments of the Act.

On behalf of the Ministry of Police, I was then forced to undertake a monitoring/inspecting visit to the CFR on 13th March 2015, and what I saw was horrendous, to say the least. It is blatantly obvious that, this CFR has not been a priority for a long time.

Infrastructure is falling apart with its outdated IT systems; there is a high vacancy rate; a lot of personnel were fired due to corruption, which is a good thing, but they were not replaced; and, there is a definite lack of command and control.

And, to cap it all, the Appeals Board is located in the same CFR building, and of course there would be blurring of mandates and colluding/rubber-stamping. The state of readiness is thus ZERO.

I have made several recommendations: some short- term, and some long-term. The entire report of my visit will be made available to the public, as soon as the Executive Authority of the Department of Police has approved it.

I have seen in the SAPS' presentation, which was delivered by the National Commissioner of Police earlier this morning that, it has indeed touched on some of the key findings of my inspecting visit to the CFR.

Notwithstanding, as the Ministry of Police, we will be anticipating a concrete time-framed intervention report from the National Commissioner of Police and her relevant team, that will tell the Minister of Police and myself, as to how the Department will be planning to address and remedy all that is highlighted in my report.

These are some of the critical recommendations I have made to the Department of Police after my inspection visit:

- Researchers of Parliament must do a research and do benchmarking studies to find out if the CFR should be a Division of its own. This will in the long- term address issues of infrastructure, human capacity, and management.
- The Appeals Board needs to be moved to the offices of the Civilian Secretariat of Police, to ensure impartiality of the Body.



- o Introduce short-term contracts and internship programmes to address the acute backlogs in all types of licenses applied for.
- o Reconsider the age-limit of gun-ownership from 21 years down to 18 years.
- o Link CAS and CFR systems to immediately detect unfit people who apply for gun licenses.
- o Enhance Health and Wellness of a police officer who lawfully carries and uses the gun as his tool of trade everyday.

I would like to conclude by saying, Chairperson, that delegates who are here must forge real partnerships to achieve the goals of efficiently controlling the acquiring, dealing and usage of guns in South Africa.

I thank you all.

**Enquires:**

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IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH GAUTENG DIVISION: PRETORIA)

CASE NO: 13528/15

In the matter between:

~~CERILARD HANS~~  
(PASSPORT NO. PP443013543)

Applicant

and

BRIGADIER H. L. MATSHENE N.O.  
HEAD OF THE OFFICE OF THE CENTRAL  
FIREARMS REGISTRY

First Respondent

THE NATIONAL COMMISSIONER OF THE  
SOUTH AFRICAN POLICE SERVICES

Second Respondent

THE MINISTER OF POLICE

Third Respondent

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ANSWERING AFFIDAVIT

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I, the undersigned,

SIBONGILE DORAH KIBIDO

do hereby make oath and state that:

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BDK



- 1.1. I am an adult female Police Officer and appointed as a Colonel in the South African Police Service. I am the Section Commander in the Central Firearms Registry and attached at Permit Section and at care of State Attorney, SALU Building, Ground Floor, 316 Thabo Sehume Street, Pretoria. I am duly authorized to depose to this affidavit and depose as such on behalf of all Respondents.
- 1.2. The facts contained herein are within my personal knowledge, unless indicated otherwise from the context hereof, and are to the best of my knowledge both true and correct.
- 1.3. To the extent that I make submissions of a legal nature in this answering affidavit, I do so on the strength of legal advice obtained in this regard and where I rely on information supplied to me by others, I verily believe same to be true and correct.



2. I have read the founding affidavit deposed to by the Applicant used in support of his application and I proceed to deal with the Applicant's Founding Affidavit *seriatim*.

3. **AD PARAGRAPH 1**

To the extent that the contents of this affidavit are in conflict with the Applicant's founding affidavit, the allegations contained in the affidavit under reply are denied.

4. **AD PARAGRAPH 2, 3 and 4**

The contents of these paragraphs are noted.

5. **AD PARAGRAPH 5, 6 and 7**

It is denied that Central Firearms Register is established in terms of section 128 of the Act. Section 128 deals



with the establishment of the Appeal Board. In any event, the First Respondent is cited as Brigadier H.L. Matshene N.O., Head of the Office of the Central Firearms Registry.

6. **AD PARAGRAPH 6, 7 and 8**

The contents of these paragraphs are noted.

7. **AD PARAGRAPH 9**

I have no knowledge of the contents of this paragraph.

The Applicant is put to proof thereof.

8. **AD PARAGRAPH 10**

I have no knowledge of the contents of this paragraph and the Applicant is put to proof thereof.



9. AD PARAGRAPH 11, 12, 13 and 14

- 9.1. It is denied that there are structural and administrative difficulties in the Administration of the Central Firearms Registry. There were such difficulties some years back in 2010 but those problems were since rectified and the administration is running smoothly at present. Annexure B referred to by the Applicant relates to problems encountered in 2010 and back. It is unfair for the Applicant to refer to such Minister of Police press release in 2015.
- 9.2. With regard to press reports by the Portfolio Committee the incidents referred to only relates to individuals and such conduct does not necessarily mean that the vast majority of officials working at Central Firearms Registry are corrupt. Even such officers who were arrested as reported are, in terms of the Constitution, presumed to be innocent until proven guilty in a Court of law.



9.3. With regard to Public Protectors Report of 2007, this also refers to the investigation which was launched by the office of the Public Protector emanating from complaints lodged by members of the Public. The findings and recommendations of the Public Protector were received by the Department in 2007 and attended to. This report has no relevance to the Section 21 application by the Applicant, and is not understandable as to why Applicant refers to such report in this instant application.

10. **AD PARAGRAPH 15**

The said firearms should not have been imported from Germany without a temporary authorization to possess such firearms in South Africa. The correct procedure was that the Applicant should have first applied for a Section 21 temporary authorization and export permit while still in Germany. It is unlawful for the Applicant to



enter the Republic of South Africa with the firearms without a temporary authorization to possess them.

**11. AD PARAGRAPH 16**

The contents of this paragraph are noted.

**12. AD PARAGRAPH 17 and 18**

The Applicant first applied for section 21 temporary authorization to possess the same firearms in 2011. On 21 June 2011 such application was refused for the reason that he should have applied for such authorization before he left Germany and enter the country. I annex hereto marked 'SK 1' a copy of the application that was refused.



13. AD PARAGRAPH 19

I am aware of the provisions of section 21 and temporary authorization to possess firearms. There was no need for the Applicant to refer to the Fidelity case whereupon the issue to be determined was about the interpretation section 21 of the Firearms Control Act. In the instant application the application was not captured on the system on the 07 October 2014 when it was lodged because the firearms concerned were not registered. The Applicant was advised that the application could not be processed because of the aforesaid reason. Such refusal was communicated to the Applicant on the very same date by the Designated Firearms Officer Warrant Officer Sekoboane. I annex hereto marked 'SK2' a confirmatory affidavit by Michael Mamba Sekoboane.



14. **AD PARAGRAPH 20**

It is denied that the previous application for section 21 permit was not processed. The Applicant is misleading this Honourable Court because he is aware that such application which was made on 21 June 2011 was refused. The reasons were that seven (7) firearms applied for were not registered on the South African Police Service system. The application could not be captured at the Police Station in Hoopdal.

15. **AD PARAGRAPH 21 to 26**

The contents of these paragraphs are noted.

16. **AD PARAGRAPH 27 and 28**

It is correct that section 21 temporary authorization is the mechanism through which Applicant can lawfully possess



these firearms. Such application should have been made by the Applicant whilst in Germany, that is, before he immigrated to South Africa. Without the temporary authorization the Applicant is possessing the said firearms unlawfully.

17. **AD PARAGRAPH 29**

It is correct that the Applicant applied for a section 21 temporary authorization to possess these firearms at Hoopdal Police Station on 07 October 2014. His application could not be captured at the station because the firearms were not registered on the SAPS system. This was communicated to the Applicant. This application was similar to the one which was refused in 2011 as it relates to the same Applicant and same firearms. The Applicant was taking a chance because he knew that his application was refused in 2011 or he



thought that the Designated Firearms Officer might have forgotten about that in 2014.

18. **AD PARAGRAPH 30**

The contents of this paragraph are noted.

19. **AD PARAGRAPH 31, 32 and 33**

19.1. The contents of these paragraphs are denied. It is not correct to say that the application have not been processed as if it is just kept at the Police Station for no reason. I reiterate that it was communicated to the Applicant that the application cannot be captured at the station because the firearms concerned were not registered on the SAPS system.

19.2. The Applicant, if these firearms are still in his possession, it would mean therefore that he is possessing them unlawfully and that constitutes a criminal offence.



**20. AD PARAGRAPH 34 and 35**

20.1. Save to state that annexure 'J' in the form of a letter of demand is not annexed to these papers, the remainder of these paragraphs cannot be responded to until such time that the letter of demand is produced to the Respondents.

20.2. It is denied that the Respondents did not comply with the Promotion of Administration Justice Act. The application was refused and reasons were communicated to the Applicant on 07 October 2014.

**21. AD PARAGRAPH 36, 37 and 38**

The Applicant has abused the process of this Honourable Court by approaching it for an order he is quite aware that he is not entitled to as he is aware of the reasons for not capturing the application at Hoopdal Police Station on 07 October 2014. The same application was refused



in 2011 and did not challenge such refusal by following the appropriate channels or forum.

**22. AD PARAGRAPH 39, 40 and 41**

22.1. With regards to costs, I respectfully submit that the Applicant deserves censure from this Honourable Court as a sign of showing displeasure as a result of his conduct in abusing the process of this Court.

22.2. The Applicant is quite aware of the status of the application as from 07 October 2014 but kept mum trying his luck in the event of this application not opposed thereby misleading this Honourable Court. Applicant deliberately concealed the fact that it was communicated to him that the application could not be captured at the Police Station.



23. AD PARAGRAPH 42

It is respectfully submitted that the Applicant has not made out a proper case for the relief he sought in his notice of motion and that his application falls to be dismissed with costs on a scale between attorney and client.

WHEREFORE I pray that the Applicant's application be dismissed with costs.

  
DEPONENT

Thus signed and sworn to before me at PRETORIA on this the 08<sup>TH</sup> day of April 2015. The Deponent having acknowledged that she knows and understands the contents of the foregoing affidavit, and has no objection to taking the



prescribed oath and that she considers the oath to be binding on  
her conscience.



**COMMISSIONER OF OATHS**

**FULL NAME:**

**ADDRESS:**

**CAPACITY:**

**LUTENDO NDAMBAKUWA**  
**PRACTICING ATTORNEY**  
**COMMISSIONER OF OATH**  
SUITE 306 - 3RD FLOOR  
SAVELKOULS BUILDING  
CNT. PAUL KRUGER & PRETORIOUS STR  
PRETORIA 0002

DATE: 08/04/2015



IN THE HIGH COURT OF SOUTH AFRICA  
(NORTH GAUTENG DIVISION: PRETORIA)

CASE NO: 13528/15

In the matter between:

~~GERHARD HANS~~  
(PASSPORT NO. PT445013345)

Applicant

and

BRIGADIER H. L. MATSHENE N.O.  
HEAD OF THE OFFICE OF THE CENTRAL  
FIREARMS REGISTRY

First Respondent

THE NATIONAL COMMISSIONER OF THE  
SOUTH AFRICAN POLICE SERVICES

Second Respondent

THE MINISTER OF POLICE

Third Respondent

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CONFIRMATORY AFFIDAVIT

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I, the undersigned,

MICHAEL MAMBA SEKOBOANE

do hereby make oath and state that:

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1. I am an adult male Police Officer and appointed as a Warrant Officer in the South African Police Service. I am a Designated Firearms Officer stationed at Hoopdal Police Station and at care of State Attorney, SALU Building, Ground Floor, 316 Thabo Sehume Street, Pretoria.
2. The facts contained herein are within my personal knowledge, unless indicated otherwise from the context hereof, and are to the best of my knowledge both true and correct.
3. I have read the affidavit deposed to by **Sibongile Dorah Kibido** and confirm that the facts herein contained insofar as they relate to me are both true and correct.

  
**DEPONENT**



Thus signed and sworn to before me at PRETORIA  
on this the 08<sup>TH</sup> day of April 2015. The Deponent having  
acknowledged that he knows and understands the contents of the  
aforegoing affidavit, and has no objection to taking the  
prescribed oath and that he considers the oath to be binding on  
his conscience.



\_\_\_\_\_  
**COMMISSIONER OF OATHS**

**FULL NAME:**

**ADDRESS:**

**CAPACITY:**

**LUTENDO NDAMBAKUWA**  
**PRACTICING ATTORNEY**  
**COMMISSIONER OF OATH**  
SUITE 306 - 3RD FLOOR  
SAVELKOULS BUILDING  
CNT. PAUL KRUGER & PRETORIOUS STR  
PRETORIA 0002

DATE: 08/04/2015



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**Subject:** FW: GERHARD HANS / THE CENTRAL FIREARMS REGISTRY AND TWO OTHERS - CASE NO:13528/2015

**From:** Mabule LJ - Brigadier [mailto:MabuleL@saps.gov.za]

**Sent:** 04 May 2015 06:18 PM

**To:** ~~Rizwana Mohamed~~

**Cc:** Kibido Sibongile - Colonel

**Subject:** RE: GERHARD HANS / THE CENTRAL FIREARMS REGISTRY AND TWO OTHERS - CASE NO:13528/2015

Sir/ Madam

This serves to acknowledge receipt of your email.

Please you are advised to read your Act and Regulations to equip yourself.

I hope you find the above in order.

*LJ Mabule* (IM-IRMSA)

**BRIGADIER**

**HEAD OF OFFICE: CENTRAL FIREARMS REGISTER**

**TEL:012 353 6503**

**Cell:082 778 9542**

**Fax: 086 553 7216**

**E-mail: [MabuleL@saps.gov.za](mailto:MabuleL@saps.gov.za)**

*"There are many good things in Heaven and Earth more than are dreamed of by mere mortal men"*

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**From:** ~~Rizwana Mohamed~~ [mailto:~~rizwana@mjhood.co.za~~]

**Sent:** 04 May 2015 03:47 PM

**To:** Kibido Sibongile - Colonel; Mabule LJ - Brigadier

**Subject:** GERHARD HANS / THE CENTRAL FIREARMS REGISTRY AND TWO OTHERS - CASE NO:13528/2015

Dear Sir / Madam

You have stated in court papers that a Section 21 Permit must be applied for before a person arrives in this country in the case of a foreigner.

Taking aside any xenophobic connotations to this, please direct us to where in the Act it specifically says that an application needs to be made by a foreigner before their arrival in this country.

We trust that you understand the urgency of this matter and that your response is critical to the advice that we give to clients.

If on the other hand, this is your interpretation of the Act, and it is contained in the policy, please give us a copy of this policy.

Kind Regards,

Martin Hood  
Partner

**MJ Hood  
& Associates**  
ATTORNEYS

Molon Labe House  
Unit 10 Woodview Office Park  
1 Humber Street  
Woodmead  
Sandton

t: 011 234 7520  
f: 011 803 7828 / 086 249 7485  
w: [www.mjhood.co.za](http://www.mjhood.co.za)  






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**DEPARTMENT OF POLICE  
DEPARTEMENT VAN POLISIE**

Verwysing 27/5/2/1 (2060951)  
Reference

Telefoon (012) 353-6576  
Telephone (012) 353-6188

FIREARMS APPEAL BOARD  
VUURWAPEN APPÉLRAAD  
PRIVATE BAG X353  
PRIVAATSAK X353  
**PRETORIA**  
0001

2015-04-07

MJ Hood & Associates Attorneys  
P O Box 2606  
RIVONIA  
2128

Gentlemen

**APPEAL AGAINST THE RENEWAL OF A LICENCE TO POSSESS A FIREARM:  
~~R P JORDAAN~~ ID ~~50110151070000~~  
9 MM PARABELLUM PISTOL SERIAL NUMBER 77C69298**

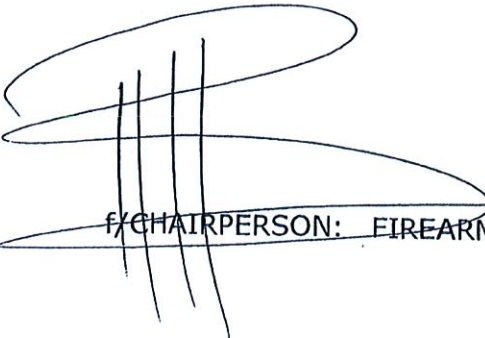
Your letter Ref A Allardyce/am/MJ006901 dated 2014-11-14 refers.

After due consideration of your client's appeal against the National Commissioner of Police's refusal of your client's application for the renewal to possess a firearm, the Appeal Board has decided to refuse the appeal.

Your client had no valid competency certificate at the time he lodged his application for renewal.

Your client may now lodge a new application for the renewal of his licence since the Board has upheld his appeal against the refusal of a competency certificate.

Yours faithfully

  
f/CHAIRPERSON: FIREARMS APPEAL BOARD





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**DEPARTMENT OF POLICE  
DEPARTEMENT VAN POLISIE**

Verwysing 27/5/2/1(2060951)  
Reference

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FIREARMS APPEAL BOARD  
VUURWAPEN APPÉLRAAD  
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PRIVAATSAK X353  
**PRETORIA**  
0001

MJ Hood & Associates Attorneys  
P O Box 2606  
RIVONIA  
2128

2015-04-07

Gentlemen

**APPEAL AGAINST THE REFUSAL OF A COMPETENCY CERTIFICATE:**  
**~~R P JORDAAN~~**  
**~~ID 581101 5107 008~~**  
**HANDGUN**

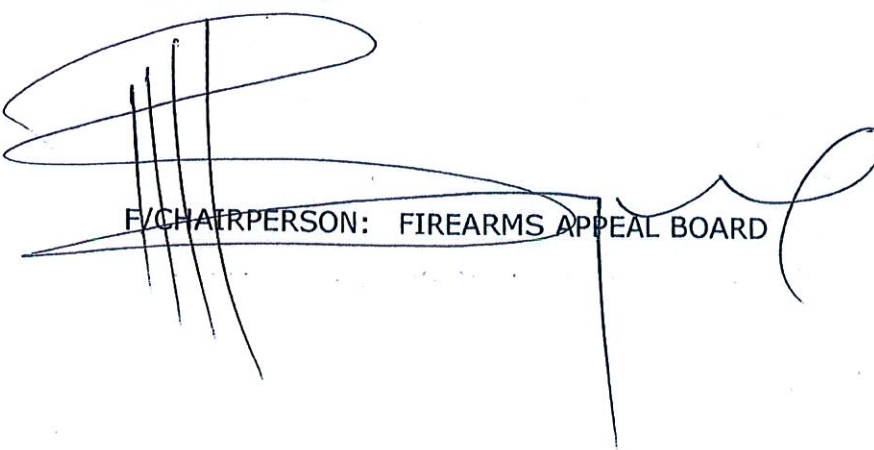
Your letter Ref A Allardyce/am/MJ006901 dated 2014-11-14 refers.

Your client's appeal was considered and upheld by the Board on 2015-02-12.

Your client's certificate will be issued by the Registrar in due course.

Any enquiries in respect of this certificate should be directed to your client's local police, and **not to the Appeal Board.**

Yours faithfully

  
F/CHAIRPERSON: FIREARMS APPEAL BOARD