

PORTFOLIO COMMITTEE PRESENTATION

CENTRAL FIREARMS REGISTRY RECOVERY PLAN

Presented by Martin Hood
01st September 2017



SOUTH AFRICAN ARMS & AMMUNITION DEALERS ASSOCIATION
UID AFRIKAANSE WAPEN EN AMMUNISIE HANDELAARS VERENIGING

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INTRODUCTION

- The Firearms Control Act 60 of 2000 was drafted and passed
 - relatively early in development of Constitution in South Africa and
 - the nature and impact of the Constitution not been fully understood
- An assessment of the success of the Central Firearms Registry Recovery Plan needs to be made against provisions of Section 195 of the Constitution which deals with the requirements for public administration



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PUBLIC ADMINISTRATION

- Five topics will be used in this presentation to assess how effectively the CFR operates:
 - Policy and consistency
 - Communication and consultation
 - Certain specific provisions of the Act and why they have not been implemented (Section 39(6) and 39(7) of the Act)
 - Proposed amendments
 - Lapsed firearm licences



SECTION 195 OF THE CONSTITUTION

- a. A **high standard of professional ethics** must be promoted and maintained
- b. **Efficient economic and effective** use of resources must be promoted
- c. Public administration must be **development-oriented**
- d. Services must be provided **impartially, fairly, equitably and without bias**



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SECTION 195 OF THE CONSTITUTION

- e. **People's needs** must be responded to, and the public must be encouraged to **participate** in policy-making
- f. Public administration must be **accountable**
- g. **Transparency** must be fostered by providing the public with timely, accessible and accurate information
- h. Good human-resource management and career-development practices, to **maximise human potential**
- i. Public administration must be **broadly representative** of the South African people



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SECTION 195(e)- ABOVE

“People's needs must be responded to, and the public must be encouraged to participate in policy-making.”

- The CFR has
 - no disclosed policy.
 - no public guidelines regarding:
 - what documentation needs to be submitted.
 - what information should be provided
 - how applications are assessed
 - this creates uncertainty and a higher workload for the CFR
- Clearly there are internal policy guidelines which the police will not disclose



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SECTION 195 – EXAMPLE 1

- The first is in respect of applications for **Section 21 permits**
 - current policy only allows Section 21 permits for a year
 - this is not contained in the Act
 - this results in multiple applications for the same firearm
- This is contrary to requirements of Section 195 for **efficient, economic and effective use of resources**



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SECTION 195 – EXAMPLE 2

- A specific reason for refusal of a licence

"Refused possession of machine guns prohibited Sec 32(1)."

- Section 32(1) refers to the Old Arms and Ammunitions Act 75 of 1969 repealed in 2004.
 - this allowed for the issue of a permit for a machine gun
- CFR relies upon a provision of a **repealed act**
 - Question the competence of the Deciding Officer and internal guidelines used



SECTION 195 – EXAMPLE 3

- Another reason for refusal of a licence :
 - *"the company does not have enough guards."*
- Settled in SAIDSA court matter of 2011
- Issue of guards and competencies was raised
- It was agreed by the CFR that these were irrelevant considerations
- However, recently this reason has made a reappearance. Where does this come from?
 - linked to **Senior Management** changes within **FLASH?**



SECTION 195 – APPEAL BOARD

- Appeal Board is equally guilty of **maladministration** - the Act specially requires in Regulation 90(7)
 - *"The Chairperson shall determine the times when the Appeal Board shall meet and the procedure to be followed at meetings."*
- Notwithstanding a request to the Chairman, the procedures have not been disclosed
- They operate behind closed doors away from public scrutiny
- The public does not know what to submit to the Appeal Board



SECTION 195 OF THE CONSTITUTION

- **Without policy and procedure**
 - there can be no consistency and
 - capriciousness in decision making is allowed and
 - unnecessary documentation is submitted to the Central Firearms Registry and Appeal Board



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COMMUNICATION AND CONSULTATION

- SAPS do not acknowledge firearm owners as stakeholders
- Three examples illustrate this:
 - unilateral changes in calibre codes (One dealer had to do 5000 notifications)
 - key stakeholders identified in SAPS Communication Plan dated 13 March 2017
 - the South African Police Services' presentation on the Firearm Amnesty to Parliament 15 March 2017



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COMMUNICATION AND CONSULTATION

- In the SAPS Communication Plan dated 13 March 2017 signed by Deputy National Commissioner SF Masemola, key stakeholders are identified in paragraph 7:
 - 7.1 *Gun Free South Africa*
 - 7.2 *Passenger Rail Agency South Africa (PRASA)*
 - 7.3 *Gautrain*
 - 7.4 *Faith based organizations*
 - 7.5 *Department of Basic Education*
 - 7.6 *Department of Higher Education*
 - 7.7 *Sport associations*
 - 7.8 *PSIRA*
 - 7.9 *House of traditional leaders*
 - 7.10 *SAHRA*
- Not one firearm, hunting, sport shooting, or collectors organisation is identified as a key stakeholder,
- This is a clear acknowledgment of bias because
SAPS knows who we are



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COMMUNICATION AND CONSULTATION

- SAPS presentation on the Firearm Amnesty to Parliament 15 March 2017 identifies on page 26:

"Partnerships of significance e.g. media houses, embassies, faith base body, shopping malls, business against crime, institutions learning, commuter points, banking sector, house of traditional leaders, premier soccer league, Vodacom amongst others."

- Again not one firearm organisation is considered an appropriate medium for communication or partnership

WHY?

- We have better communication mechanisms than SAPS
- How can we as a community trust the South African Police Services in this context when we are ignored?



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COMMUNICATION AND CONSULTATION

- The Hunters Forum and South African Arms and Ammunition Dealers Association resolved not to communicate directly with the SAPS due to
 - a complete lack of communication and/or consultation from SAPS and
 - a breakdown in trust.
- The Dealers Association has been asking the same questions of the CFR for up to 10 years without answers
 - this is documented in minutes
 - the last official meeting between the Dealers and the Central Firearms Registry took place in September 2015



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FAILURE TO IMPLEMENT THE ACT

- The Act has not been implemented in many respects.
- A simple example is the requirements of Section 39 that deal with electronic connectivity
 - the Dealers Association has been asking for electronic connectivity for 12 years
 - court action is being considered to compel electronic connectivity
- Electronic connectivity will provide enhanced and better control over the movement of arms and ammunition. Why have SAPS not implemented it?



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AMENDMENTS

- Firearm community has not been consulted on any amendments since 2015
- We hear persistent rumours that major amendments are going to be presented to Parliament in 2017
- Why do we not know about the proposed amendments?
- How can the firearm community trust the South African Police Service when:
 - we are not regarded as a stakeholder, yet GFSA is
 - they have an undisclosed policy and inconsistent application of whatever guidelines they have?



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AMENDMENTS

- How can we trust the police and the Minister when the Minister states in his Notice of Appeal in the SA Hunters Judgment:

"The Learned Judge ought to have found that a forfeiture of a firearm as a result of a failure to comply with the Act is not a deprivation; and that any deprivation that does arise in accordance with the law of general application and is a legitimate exercise of power because its purposes to protect the public, health, welfare and safety and security to everyone's benefit."

- Do the Minister and SAPS support
 - arbitrary deprivation of property without process
 - where there is no flexibility built into the process
 - allowing a non-compliant firearm licence holder to explain their non-compliance?
- What comes next? Detention without trial because of a lapsed licence?
- Do SAPS understand their Constitutional obligations?



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SOLUTIONS

- Remove the functioning and control of the CFR from the SAPS and put it under the direct control of the Secretariat of Police with proper reporting structures controlled by the Secretariat of Police
- Appoint a Ministerial committee in terms of Section 132 of the Firearms Control Act made up of persons who:
 - understand the Constitution and the Act
 - are subject matter experts
 - focus on efficient public administration and service delivery for effective implementation of the Firearms Control Act



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SOLUTIONS CONTINUED

- CONTINUED - Appoint a Ministerial committee in terms of Section 132 of the Firearms Control Act made up of persons who:
 - develop and implement as a matter of urgency, policies derived in accordance with Section 195 of the Constitution
 - comply with court orders and not to litigate unnecessarily
 - why was it necessary to oppose the trio of court cases?
 - get the South African Police Services to admit their mistakes and take responsibility for them



SOLUTIONS CONTINUED

- CONTINUED - Appoint a Ministerial committee in terms of Section 132 of the Firearms Control Act made up of persons who:
 - compel the police and Appeal Board to do their jobs transparently and objectively
 - remove obstructive or incompetent officials
 - simplify procedures
 - abolish relicensing
 - focus on competency and renewal thereof
 - engage your stakeholders



THANK YOU



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