

**AN ANALYSIS OF THE FIREARMS CONTROL MEASURES USED BY THE
SOUTH AFRICAN POLICE SERVICE**

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CHAPTER 1

GENERAL ORIENTATION

1.1. INTRODUCTION

Every person in South Africa has a fundamental human right to safety. It is therefore according to Jaynes and Meek (2010:1), the duty of government and non-government bodies to invest in endeavours to enhance safety and prevent factors that jeopardize the safety of inhabitants. Jaynes and Meek are further of the opinion that government has a responsibility to ensure strict control measures that prevent the misuse and criminal proliferation of firearms; failure of which constitutes a human right violation.

Various opinions and contradictory facts emerge whenever the role of firearms in violence is discussed; especially with regard to the topic on how to reduce violent injuries and firearms related deaths. Among the questions asked are whether firearm regulations should restrict those who may possess and carry a firearm; the need for different regulations for different types of firearms; a need for restrictions on sale/purchase of firearms; number of firearms; types and the need for safety locks on firearms (Wellford, Pepper & Petrie, 2005:2).

This research will endeavour to answer some of the questions regarding who should have firearms, whether they are currently effectively regulated, the sources of illicit firearms and firearms proliferation, as well as measures to improve generic firearm regulation and the effective policing thereof in line with international best practices.

1.2. BACKGROUND

Firearms have been used throughout the world: initially in wars, then as hunting and self-defence tools. According to Gamba (2000:6), guns are perceived as a symbol of crime and violence in some section of the population in South Africa, whilst other parts view them positively as a means by which independence was won. On the contrary, Kirn (2013:1) indicates that the white South African culture legitimized firearm ownership, and firearms were therefore easily available for use as personal safety

measures. Kirn indicates further that following the democratic transition, firearm ownership has been driven by the fear of crime. The difference between then and now is among others the high number of firearms in circulation, the lethality of modern firearms and the easy accessibility of firearms to name a few.

The question that comes to mind is: what process might have been driving this apparent resort to weapons? Throughout the years, legislative proposals to restrict the availability of firearms to the public have raised questions such as: what restrictions on firearms are permissible under the Constitution? Does gun control constitute crime control? Can the nation's rate of homicides, robbery and assault be reduced by stricter regulations of firearms trading or ownership? Would household, street corner and school yard disputes be less lethal if firearms were more difficult or expensive to acquire (Congressional Digest, 2013)? The document continues to reflect on gun control opponents who reject the assumption that the only legitimate purpose of ownership by private citizens is recreational (hunting and target shooting). These proponents insist on the need for people to defend themselves and their property and they believe that gun possession lowers the incident of crime. They believe the law enforcement and the Criminal Justice System have not demonstrated the ability to provide adequate measures of public safety.

The initial South African arms industry was established in Pretoria just before the Second World War with the financial support from Britain. The demand for some more armaments during the war, the threat to government security in the 1960s by liberation movements and the deployment of the South African Defence Force in Angola and Namibia led to mass production of arms (Gould & Lamb, 2004:138).

According to Krcma (1971: v) firearms were traditionally only stamped or engraved with the name of the manufacturer to indicate its origin. Due to massive production later, manufacturers used serial numbers to keep record of their production. Krcma (1971:1) reports further that Police authorities soon recognised the value of having serial numbers on individual guns and took a decision at the U.S Congress in 1938 to pass

legislation that compels all manufacturers to place serial numbers on individual guns and keep record thereof, which they used to track back a firearm to its owner. In support of the above, a USA report on gun dealership, licensing and illegal gun trafficking indicated that all illegal guns start off as legal firearms and as such when a firearm found at a crime scene, police can use the serial number on the gun to trace back where it left the legal market, starting with the sale point from manufacturing through retailer and end-user (Parnell, 2009:2).

There are views that strict enforcement of firearm legislations may save lives and at the same time put lives at risk. Just as for example, heaters may start a fire, but they also keep people from getting sick in freezing weather conditions. Lott (2010:10) believes that the same argument can be meted against gun control issues such as gun locks that are commonly applied in the USA. Lott (2010:10) argues that locked and unloaded guns are safe from accidents and spontaneous rage attacks, but such a firearm does not offer ready protection against intruders, which may have been the reason for its primary acquisition. Wesson (1999:3) indicates that countries in the SADC region with effective gun control policies and fewer firearms in circulation experience fewer gun crimes and enjoy more safety than countries with more permissive gun control policies which result in more firearms in circulation.

Proponents of gun control legislation believe that states with few restrictions will continue to be sources of guns that flow illegally into more restrictive states (Congressional Digest, 2013). The significant rise of firearm deaths and injuries in South Africa in the early 1990s led to a vigorous campaign for stricter firearm control which gave birth to the Firearms Control Act 60/2000 that replaced the ineffective and outdated Arms and Ammunition Act 75/1969 (Shung-King, Proudlock & Michelson, 2005:1). The following table highlights some of the injuries resulting from firearm incidents:

Table 1.1: Epidemiology of firearm injuries in Red Cross War Memorial Hospital

Incident leading to injury	Period 1991 – 2001		Period 2001 – 2011	
	N	%	N	%
Cross fire	75	33.8	63	38.7
Shot by adult (intentionally)	3	1.4	13	8.2
Shot by child (intentionally)	12	5.4	4	2.5
Shot by gangster (intentionally)	13	5.9	8	4.9
Playing with gun	13	5.9	3	1.9
Accidental	24	10.8	20	12.3
Unspecified	82	36.9	52	31.9
Total	222	100	163	100

Source: Adapted from Campbell: 2013

The table above indicates a high number of firearm injuries to children throughout the first decade (1991-2001), prompting a befitting statement that the non-availability of firearms could have a significant impact on the reduction of firearm injuries in children. The second decade (2001-2011) results, which coincide with the implementation of the FCA, show a decline in firearms related incidents and eventually a decline in mortality rate. The decline highlights to an extent the success of the FCA in reducing gun-related violence.

Comparatively, the influx of large numbers of illegal items such as drugs in most countries undermines the security at the borders and eventually raises eyebrows regarding guns control at the borders. The influx rate creates the impression that firearms may be among the smuggled items. This raises a question whether gun control is effectively restricting guns from at-risk individuals or whether firearm laws are primarily meant to address gun ownership by law abiding citizens, i.e. the ability to strike a balance between firearms in criminal hands and those in possession of law abiding citizens (Lott, 2010:11). This research intends to suggest possible solutions to the stated problems that will enhance the effective policing of firearms in South Africa.

1.3. RATIONALE OF THE RESEARCH

Leedy (1993:5) explains a research problem as follows: Research demands a clear statement of the problem. Successful research begins with a clear, simple statement of the problem. The perplexity and unanswered question that the researcher finds indigenous to the research question, must crystallise at the very beginning of the research endeavour in a precise and grammatically complete statement, setting forth exactly what the researcher seeks to discover. The reason for this, according to Leedy (1993:47), is that the researcher must understand the problem and look at it objectively. The researcher must see clearly what is being researched. Trafford and Leshem (2008:12) summarise it in the words of Elliot (1974:208) who said “what we call the beginning is often the end, and to make an end is to make a beginning. The end is where we start from”.

1.3.1 RESEARCH QUESTION

There is an old saying that excellence is not a destination, but a continuous journey that never ends. The same may be said about research. According to White (2002: 9), research may be seen as an activity that leads to the answering of questions or creating what does not exist.

The research question is the central controlling idea in a study that conveys the overall intention of a proposed study in a sentence or small paragraph. In other words, it is a specific question to be answered in research (Creswell, 2009:111).

The central research question for this study is: What firearm policing model can be implemented to effectively control firearms in South Africa? This research endeavours to answer the following sub-questions:

- What does the policing of firearms entail?
- Does South Africa have effective legislation to police firearms?
- Is firearm legislation in South Africa effectively enforced?
- What are the gaps or discrepancies in the enforcement of firearm legislation?
- What are the consequences of the identified gaps or discrepancies?

- What are the international best practices on the policing of firearms?
- What can be done differently to improve the situation?

The above questions will be discussed, contextualized and followed through until all possible answers were obtained.

1.4. AIM AND OBJECTIVES

The primary aim of this research will be to provide insight on how firearms are currently policed in South Africa and to suggest a model to improve that.

1.4.1 Aim

By means of this research, the researcher intends to suggest solutions to the above research problems by analyzing measures taken by the South African Police Service to control firearms in South Africa. In addition, the researcher needs to get answers to the following objectives.

1.4.2 Objectives

- What does the policing of firearms entail?
- Does South Africa have effective legislation to police firearms?
- Is firearm legislation in South Africa effectively enforced?
- What are the gaps or discrepancies in the enforcement of firearm legislation?
- What are the consequences of the identified gaps or discrepancies?
- What are the international best practices on the policing of firearms?
- What can be done differently to improve the situation?

A comparative study will be conducted between South African firearm legislation and those of international countries within SADC and BRICS to develop a firearm policing model that will contribute positively to crime fighting in South Africa.

1.5. PHILOSOPHICAL WORLDVIEW

A philosophical worldview, according to Creswell (2009:6), is a general orientation regarding the world and the nature of research that is held by researchers. Creswell indicates that worldviews are guided by beliefs and past research experience. There are four different worldviews according to Creswell (2009:6), namely: Post positivism, Constructivism, Advocacy/ participatory, and Pragmatism. The researcher will be using the pragmatic worldview.

1.5.1 The Pragmatic Worldview

This worldview stems from current action, situation and consequences, such as what works at the time (Creswell, 2009:10). The research focuses on the research problem and uses all approaches available to understand and solve the problem. Creswell reports that researchers in this worldview apply mixed methods to address the problem, whether it is social, historical, political or any other context.

1.6. DELIMITATION OF THE STUDY

According to Leedy (1993:58), researchers should endeavour to eliminate any possibility of misunderstanding by, for example, delimiting the research by giving a full disclosure of what they intended to do, and conversely, did not intend to do.

1.6.1 Geographical delimitation

The research is based on the policing of firearms in Pretoria, Gauteng as indicated in paragraph 4.5 below.

1.6.2 Concept delimitation

In this research, some key concepts feature prominently and repeatedly. In order to identify and refine the different literature sources, it is necessary to achieve conceptual coherence and to clarify the terms and geographical applicability of the study, as well as the period during which the study was conducted. The key concepts of this study are hereby defined:

1.6.2.1 A firearm

Section 1 of the Firearms Control Act 60 of 2000 defines a firearm as (a) any device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of burning propellant, at a muzzle energy exceeding 8 joules; (b) device manufactured or designed to discharge rim-fire, centre-fire or pin-fire ammunition; (c) device which is not at the time capable of discharging any bullet or projectile, but which is not at the time capable within the meaning of paragraphs (a) or (b); (d) device manufactured to discharge a bullet or any other projectile of .22 caliber or higher at a muzzle energy of more than 8 joules by means of compressed gas and not by means of burning propellant; (e) barrel, frames or a receiver of a device referred to in paragraph (a), (b), (c) or (d).

English and Card (2007:754) define a firearm as a lethal barreled weapon of any description from which any shot, bullet or other missile can be discharged, including a component part or any assessor to any such weapon designed or adapted to diminish the noise or flash caused by firing the weapon, but excludes antique firearms.

Stott (2003:9) defines a firearm as (a) any portable lethal weapon that expels, or is designed to expel, a shot, bullet or projectile by the action of burning propellant, excluding antique firearms or their replicas that are not subject to authorization in the respective state parties; (b) any device which may be readily converted into a weapon referred to in paragraph (a); (c) any small arms and light weapons designed and operating as indicated in paragraph (a).

According to Saunbury and Doherty (2011:2), firearm means a lethal barreled weapon of any description from which any shot or other missile can be discharged. Saunbury and Doherty break down components of the definition by explaining that lethal means causing sufficient harm or designed to cause death or serious injury.

For the purpose of this study, firearm refers to any device that comprises of a firing pin, frame and a barrel which is designed or constructed to discharge a bullet by means of burning propellant or compressed gas. The device can be small in size and it can be operated with a single hand, or it can be bigger in size to warrant support when operated.

1.6.2.2 Small arms

According to Sabala (2004:5), the UN panel of experts defines small arms as those weapons designed for personal use, and includes revolvers and self-loading pistols, rifles and carbines, assault rifles, sub-machine guns and light machine guns.

Small arms include light machine guns, sub- machine guns, including pistols, fully automatic rifles and assault rifles and semi-automatic rifles (Stott, 2003:10).

Bekoe (2006, 23) defines a small arm as a firearm that an individual can carry on his person and includes revolvers and self-loading pistols, rifles, carbines, sub-machine guns, assault rifles, and light machine guns, as well as cartridges and ammunition for small arms.

For the purpose of this study, small arms refer to weapons that have been designed for personal usage by individuals and include handguns such as pistols and revolvers, rifles including assault rifles and semi-automatic rifles, as well as light machine guns and/ or carbines and ammunition for all above firearms.

1.6.2.3 Light weapon

A light weapon is a weapon designed for use by more than one person serving as a crew and includes heavy machine guns, hand held under barrel and mounted grenade launchers, anti-tanks and anti-aircraft guns, recoilless rifles, portable launchers of anti-craft missiles, and mortar or carbine less than 100mm (Sabala, 2004:5).

Light weapons include the following portable weapons designed for use by several persons serving as a crew: heavy machine guns, automatic cannons, howitzers, mortars of less than 100 mm caliber grenade launchers, recoilless guns, shoulder fired rockets, anti-aircraft weapons and launchers and air defence weapons (Stott, 2003:10).

A light weapon according to Bekoe (2003:23), refers to a category of armaments that must be transported either by two or more people serving as a crew and includes heavy machine guns, hand-held under-barrel and mounted grenade launchers, portable anti-aircraft guns, portable anti-tank guns and recoilless rifles, portable launchers of anti-aircraft missile systems and mortars of less than 100 mm caliber, as well as explosives, shells and missiles for light weapons, anti-personnel and anti-tank grenades, landmines, mobile containers with missiles or shells for single action anti-aircraft and anti-tank systems.

In this study, light weapon refers to high caliber weapons which are mounted or portable and are operated by two or more crew members. Light weapons include heavy machine guns, automatic cannons, mortars of less than 100 mm caliber, recoilless guns and anti-aircraft weapons, as well as shell and missiles used by the above weapons.

1.6.2.4 Ballistic test

Ballistics is the science of mechanics that deals with the launching, flight, behaviour, and effects of projectiles, especially bullets, gravity bombs, rockets, or the likes (Wikipedia.org, 2011).

The New Choice English dictionary (Geddes & Grosset, 1999) defines ballistics as the scientific study of projectiles and firearms.

For the purpose of this study, a ballistic test refers to the physical test firing of a firearm against a prepared soft target in order to retrieve the bullet and cartridge for further laboratory analysis.

1.7 THE NEED TO PAY ATTENTION TO THE POLICING OF FIREARMS

There are three categories of people who possess firearms in South Africa in the view of Coetzee (2013). They are individuals who possess duly registered firearms, individuals' illegally in possession of firearms and there are the armed forces that are issued with firearms by the state. Policing is meant to ensure the safety of all residents in the country and to address all factors that threaten the safety of the community. In their strategic plans the police should identify such factors and put measures in place to police them effectively. The American singer, Stevie Wonder who became blind at a tender age demonstrated the US gun laws problem by jokingly declaring that he was going to buy a gun for himself. He was reacting to the growing concern that the state has been granting permits to people who are legally or completely blind. He reiterated that the firearm legislation is silent on blind people and with the permissive system in the US, blind people also qualify to apply for firearm licenses. One of the most serious challenges of safeguarding dignitaries stems from the threat posed by potential assassins armed with rifles (Johnson, Koppel, Mocsasy & O'Shea, 2012:10). The golden question remains "why is it necessary to pay attention to the policing of firearms?". The discussions that follow will endeavour to answer that question.

1.7.1. High violent crime rate

In an environment in which individuals see themselves as having power or control over the dangers and fears they face, guns provide a means to reduce fear and regain some defence against ever-present threats and enemies (May & Jarjoule, 2006:87). May and Jarjoule cite a 'fear and loathing hypothesis' quote by Wright, Rossie and Day which suggests that people buy guns in response to their fear of crime and other incivilities present in their society. By implication, individuals, due to fear of crime and violence go through a mental process where they deplore crime, criminals and the like and end up purchasing firearms for protection.

Gun problem refers to the role played by firearms in the commission of violent crime. Guns pose a credible threat, even in the hands of a weak and unskilled attacker (Robin,

1991:2). Robin indicates that they can be used to kill quickly without much effort and from a safe distance. Rifles are reportedly dangerous if used in crime, due to their accuracy from great distances, as was the case in the assassination of former USA president John F. Kennedy and civil rights leader Reverend Martin Luther King, Jr (Johnson *et al.*, 2012:10). Kempson (2011:17) however, is of the view that firearms are merely instruments that harm the victim more efficiently than other tools and there will be less harm if they are limited to law enforcers only. Lott (2010:11) tends to agree with Kempson in that he believes that if all guns were to be successfully removed, it would perhaps discourage murders and other crimes because of poor alternatives in the form of knives. Gamba (2000:29) is also of the view that firearms play an important role in violent crime in South Africa and reports that criminals use firearms as an instrument of force in attacks on their victims.

Crime in South Africa is generally high, especially interpersonal violent crimes like murder, attempted murder, armed robberies, carjacking and culpable homicide, mostly as a result of negligent handling of firearms. Chetty (2000:10) believes that violent property crimes like bank robberies, robberies of cash in transit, hijacking and armed house robberies/ farm attacks characterized by firearm usage are on the increase and have a direct economic influence on current and potential investors. According to the SAPS annual report (2011/12), a total of 15 940 murders, 15 493 attempted murders and 101 463 aggravated robbery cases were reported in South Africa. Scott (2003:7) is of the opinion that the proliferation of small arms is generally associated with conflict and post conflict situations, as well as crimes like robberies, burglaries, hijacking, drug trafficking, gang related violence, money laundering and stock theft. Scott's view was supported in a study of violence in Gauteng and Eastern Cape that the rising crime in their respective areas was as a result of an increase in firearm circulation (Jefferson, 2001:89).

Loss and theft of firearms both from civilians and security forces contribute to the proliferation of firearms (Gamba, 2000:6). Minnaar (1998:6) indicates further that the disbandment of the self-defence units (SDU) and self-protection units after 1994 did not

provide for processes for disarmament of those units. He reports further that after the withdrawal of political and financial support to those units, many of their members turned to crime to survive economically. In his address to Parliament on the 18th of September 2012, the Minister of Police Mr. Nathi Mthethwa cautioned the police to strengthen firearms control measures to curb loss of firearms within their own ranks (Police improve firearm control ...,2012). The Minister described such losses as a worrying factor, as they contribute to the escalation of crime. He emphasised that criminals do not require an avalanche of firearms to rob and kill, but one firearm lost by the police or civilian that ends in the hands of criminal is sufficient for them to commit criminal acts.

Hardly a month after the Minister's statement, a Vosloorus grade 11 pupil used his police mother's s service pistol to shoot and kill one of the school bullies who was tormenting him (Alleged bullying ends tragically ..., 2012:3). It is widely believed that police officials lose their guns mostly because of negligence. Police Commissioner, Riah Phiyega reported in Parliament that for the 2011/2012 financial year 740 firearms were reported stolen or lost by police officials (Police lose 740 guns, 2012).The Commissioner indicated that most prevailing incidents of negligence include firearms lost whilst members were drunk, burglaries at their unlocked residences, robberies after drinking sprees, or stolen out of state and private vehicles.

A survey conducted in 2000 by the Human Sciences Research Council (HSRC) indicated that firearm possession was on the increase largely due to their accessibility to anyone who wanted them and people arming themselves out of fear of rising crime and violence (Meek, 2002:2). One USA pro-gun lobbyist was quoted saying "one who values his life and takes seriously his responsibilities to his family will possess and cultivate the means of fighting back, and will retaliate when threatened, he will never be content to rely solely on others for his safety, he will be armed and trained in the use of his weapon and will defend himself when threatened with lethal violence" (Squires, 2000:206).

Data at police disposal indicate that most violence- related deaths in South Africa occur on Saturdays between 20:00-23:00 when the alcohol level in the victim's blood is high. Robin (1991:7) also reports that in America the term 'Saturday night special' was coined to describe cheap handguns frequently used during weekend outbursts of criminal violence in poor neighborhoods. On the contrary, Chetty believes that most violent incidents occur when people are on holiday at home, visiting places of entertainment, but agrees with Robin above on excessive consumption of alcohol (Chetty, 2000:18).

Usage of firearms in violent crime is not only a South Africa pandemic. According to Harcourt (2003:5), 29 percent of victims of serious violent crime in the United States faced an offender with a firearm. Robin (1991:2) indicates that the mere display of a firearm will usually destabilize or immobilize the victim and thwart any attempt of resistance or fight back while maximizing the offender's chances of success. He is of the view that the mere presence of a weapon can sometimes induce people to become violent (the so called weapon effect) which in essence results in assaultive acts that would otherwise not have occurred. Robin indicates further that stimuli such as being angry, emotionally upset or frustrated during domestic arguments or bar-room altercations result in impulsive violence which is aggravated by the immediate availability of lethal weapons like a gun.

The National Crime Survey found that most gun related crimes received higher crime completion rates than other weapons, and guns are more effective against invulnerable targets like banks and commercial establishments (Robin, 1991:2). The main argument among those opposed to the Firearm Control Act remains "is regulating the civilian ownership of guns the right way to make South Africa less vulnerable to guns and gun crime" (Meek, 2002:1). Lott (2010:11) also believes that it would be easier for criminals to prey on the weakest citizens who will find it difficult to defend themselves. On the contrary, Reyneke (2000:1) indicates that even if firearms do not cause conflicts and criminal activities on their own, their availability and proliferation have the potential to escalate conflicts, undermine peace agreements, intensify violence, impact on crime, affect economic and social development, as well as democracy. Tracey (2011:2) affirms

that firearms are commonly used in violent crimes such as murder, attempted murder, rape, robbery with aggravated circumstances and carjacking.

Handguns in the form of pistols and revolvers are mostly used in violent crimes and ironically feature high on the list of lost/ stolen firearms (Chetty, 2000:18). Robin (1991:3) also believes handguns are at the core of gun violence and violent crime. He indicates that in three out of every five handgun murders, victims are related to the assailants, either as a friend, neighbour, spouse or ex-spouse, drinking buddies, etc. He is further of the opinion that such killings are mostly as a result of arguments that got out of hand between the affected parties. Tracey (2011:1) is in agreement with Chetty and Robin on handgun usage. He indicates that handguns are weapons of choice in the commission of violent crime, which affects the social harmony and security of individuals in South Africa. Gamba (2000:29) cites the fact that these weapons are easy to conceal and carry around as the main reasons behind criminals making handguns weapons of choice.

Squires (2000:189) however, emphasises that not only illicit firearms are likely to be used in criminal activities. He indicates that while illegal firearms are used in the majority of firearm-related crimes, the existence and usage of legally held firearms in crime do exist, even if only in a relatively low number of cases. Wellford *et al.* (2005:5) take the debate further when they indicate that various aspects contribute towards a person inflicting serious violence or committing suicide with a firearm. Among others they list personal temperament, the availability of weapons, human motivation, law enforcement policies, and accidental circumstances. They take their argument further by indicating that killings and suicides cannot conclusively be associated with firearm ownership, because a suicidal person may, in the absence of a firearm, use other means (Wellford *et al.*, 2005:5).

Research from the Children Institute of University of Cape Town indicates among others, that in the Western Cape, the majority of gun related violence involving young people is as a result of being caught in cross fire of gang-related or interpersonal feuds

(Shung-King *et al.*, 2005:10). In addition to that, Jaynes and Meek (2010:2) indicate that aspects that put lives of victims at risk are among others unemployment, easy access to firearms, alcohol abuse and weak law enforcements, which need to be limited and controlled as much as possible. Murray, Cerqueira and Khan (2013:480) point out that the most important factor does not seem to be the passing of national legislation, but the vigour with which the legislation is enforced at state level.

To sum it up, the proportion of gun violence appears to rise and fall with the level of gun ownership in the community. Squires (2000:62) is of the opinion that guns kept at home are most likely to be used against another member of the household, in suicides and accidental shooting incidents. The UN special reporter on the prevention of human rights violation committed with small arms, Barbara Frey indicates that “while male-dominated societies often justify small arms possession through the alleged need to protect vulnerable women, women actually face greater danger of violence when their families and communities are armed” (Amnesty International, 2005:2). Again, the widespread availability of guns makes it easier for extremist groups and offenders to gain access to guns due to leakage of guns from legitimate to illegitimate owners. It is also believed that firearms facilitate violence and increase the lethality of confrontations.

1.7.2 The extent of global firearms usage in crimes

Illegal firearms are likely to be used to commit crime because it would make it difficult for police to link the user thereof to the crime committed (Gamba, 2000:16). Gamba further indicates that it will also be difficult to estimate the number of illegal firearms to firearm-related crimes like robbery due to the fact that criminals use the same weapons to commit different crimes. Gun Free South Africa (2013) remarked in the 2011/2012 SAPS annual report that we do not know for certain that the increase or decrease in violent crime is certainly due to gun-related incidents. The authors of the report are of the opinion that a reliable analysis of murder cases in South Africa should contain more detailed information relating to murder data which should include the type of firearm used, legal/ illegal status of the firearm, whether the firearm was recovered from the crime scene, and number of bullets fired and recovered. Gun Free South Africa believes

accurate information will assist in intervention and better knowledge how to tackle the problem, thereby enhancing the safety of all citizens. Handguns are mostly used internationally in gun related crimes (Johnson et al., 2012:10). They report that it was established in an interview conducted in 1997 with inmates convicted for firearm-related offences in a New York prison that 80 percent were incarcerated for handgun related offences, followed by shotguns at 13 percent and rifles at 1.3 percent.

Crime statistics released by police indicate that murder in South Africa was reduced from 18, 148 in 2008/9 to 16, 834 in 2009/10 with a further 6, 5% decrease in 2010/11 to 15,940 (SA murder rate drops ..., 2011:1). The paper quotes a senior researcher, Chandre and Gould, as saying “this is considered a reliable figure because murder statistics are difficult to manipulate because you have to have a dead body to count a crime of murder”. Other areas of interest in the 2010/11 crime statistics are the decrease in attempted murder by 12%, assault with intent to inflict bodily harm by 4, 5%, robbery with aggravating circumstances by 12% and house robberies by 10% (Crime Statistics ..., 2011). According to the Police Crime Report (2013), most of the serious crimes like aggravated robbery, murder, attempted murder, house robberies, carjacking, cash-in-transit, business robberies and truck hijacking are committed with firearms where shots are frequently fired at victims and hitting them as well as innocent bystanders. There has been a downward trend of violent crime since 2004, with murder reduced by 27.2 percent between 2004 and 2012, reduced further by 16.6 percent between 2009 and 2012 and lately an increase of 0, 6 percent in 2012/2013. Attempted murders and aggravating robberies also followed the same trend with decreases in the first reporting period and an increase of 6.5 and 1.2 percent respectively in the 2012/2013 reporting period.

International crime statistics by Nation Master.com (2012) as indicated in the table below indicate that South Africa is ranked number one with regard to murder incidents in the world. Herewith a brief overview of the top ten countries:

Period up to 2000			Period 2002 till 2008	
Number	Country	Percentage	Country	Percentage
1	South Africa	74, 5748 %	Honduras	60.9%
2	Columbia	51, 7683%	Jamaica	59.5%
3	Thailand	33, 0016%	Venezuela	52%
4	Guatemala	18,5%	El Salvador	51.8%
5	Paraguay	7,3508%	Guatemala	45.2%
6	Zimbabwe	4, 746%	Trinidad & Tobago	39.7%
7	Mexico	3, 6622%	Columbia	38.8%
8	United States	3,6%	Lesotho	36,7%
9	Belarus	3,31%	South Africa	36.5%
10	Barbados	2,9963%	Brazil	22%
Source: ISS crime index 2010			Source: United Nations Office on drugs and crime	

The above table is indicative of how the crime situation fluctuates over a period. South Africa was number one on the rankings prior 2000 and dropped to eighth position in 2008. Honduras which was not in the top ten murder countries topped the rankings in 2008. Except for South Africa, Guatemala and Columbia, all other seven countries are new on the list. Among the BRIC countries, only Brazil and South Africa, which joined BRIC to make it BRICS, feature on the chart. Russia, India and China are out of the top ten zones.

Overall, South African 2004/2012 crime statistics indicate a decline in all types of contact crimes, including murder, rape, assault with the intent to do grievous bodily harm, aggravated robbery and common robbery among others. Police Minister, Mr. Nathi Mthethwa, in his closing remarks at the presentation of crime statistics indicated that the decline in crime means crime can be reduced and everyone needs to double their efforts to reduce it further (Crime statistics ..., 2013). The former chairperson of the Portfolio Committee on Police, Ms. Cindy Chikunga, with reference to the downward

trend in violent crimes in the nine year reporting period, also commended the police on work well done in ensuring that the people of South Africa are and feel safe (SAPS annual report hearings, 2011).

1.7.3 Number of firearms stolen and lost

Primary sources of illegal firearms in South Africa are, according to Chetty (2000:11), losses and thefts of legally owned firearms from individual owners and the state, weapons imported illegally or imported legally and diverted to the illegal market, and caches built during the liberation struggle. The other source is from state security establishments like the police and the army. Members of the SAPS and SANDF are issued with firearms due to the nature of their duties. These members of armed forces come into contact with firearms on a daily basis and that daily exposure makes them too acquainted with and somehow disrespectful of the capabilities of firearms (Coetzee, 2013). Coetzee indicates further that disrespectfulness is likely to be followed by disregard for firearm safety procedures and ignorance of basic firearm security procedures which eventually lead to losses and misuse.

According to Gamba (2000:25), those members are also targets of criminals in search of their firearms. Tracey (2011:1) also believes that the main source of the illegal pool is theft and losses and firearms from government departments such as the South African Police Service (SAPS), South African National Defence Force (SANDF), Private Security Industry (PSI), and private individuals. Tracey indicates that the concentrated pool of firearms in the hands of individuals was also accelerated by the apartheid government that made it easier for a white South African to obtain an unlimited number of firearms, while it was immensely difficult for a black South African to get a firearm. Eventually firearms were stolen from white South Africans and according to Shung-King et al., (2005:5), the overprotective apartheid system did nothing or little if anything, to address such losses.

The following table indicates the number of firearms owned by individuals and institutions lost/ stolen in the financial year 2012/13:

Table1.3 Recovered firearms relative to those stolen or lost					
Province	Firearms circulated as stolen or lost		Stolen or lost firearms recovered		Recovery rate
	2011/12	2012/13	2011/12	2012/13	
Eastern Cape	779	909	1 134	2545	279.9%
Free State	353	433	276	278	64.2%
Gauteng	3 158	3893	1 091	1976	50.8%
KwaZulu-Natal	1 911	2022	3 566	4294	212.4%
Limpopo	300	421	317	444	105.5%
Mpumalanga	845	721	334	566	78.5%
North West	711	530	272	472	89.1%
Northern Cape	54	64	26	87	135.9%
Western Cape	971	949	1 648	1745	183.9%
Other	87	--	--	--	--
Total RSA	9 105	9942	7 888	12 407	124.7%

Source: SAPS Annual Report 2012-2013

The above table indicates a recovery rate of more than 100% in some instances which can be attributed to the fact that stole firearms are circulated on the Firearm Control System (FCS) and remain on stolen status until they are recovered and cancelled. It is possible that the recovery includes firearms stolen outside the period stipulated above. The overall picture depicted in the table above reflect that during 2012/13, there was an increase of recorded firearm losses by individuals and institutions. There were 9 942 firearm losses recorded, compared to 9 105 in 2011/12.

According to the National Commissioner General Phiyega, the increase is attributed to various factors like the proliferation of firearms. The Commissioner indicated that the proliferation of civilian firearms in South Africa is not likely to decrease in the foreseeable future (SAPS Annual report 2012/13). She indicated that in the 2012/13 financial year, police approved 111 030 new firearm licences, which continue to become arsenals for criminals who obtain them from legal owners through loss, negligence or robberies. The Commissioner further reiterated that due to the fact that there is a correlation between firearm ownership and firearm-related injuries and mortalities, the correlation thereof causes policing challenges and expose the communities to firearm-

related crimes such as aggravated robberies, assaults, attempted murder, homicides and murders.

On releasing the crime statistics, the Minister of Police, Mr Nathi Mthethwa raised concerns about police firearms that are lost under unknown circumstances. He indicated that at times these firearms contribute to the escalation of crime. The Minister stressed that criminals do not require an avalanche of firearms to rob and kill, but one firearm lost by a police officer or a civilian, that ends up in the hands of criminals is sufficient for them to commit criminal acts (SAPS Media Centre: 2013).

The Children Institute of University of Cape Town is of the view that a significant portion of illegal guns were obtained through theft from the pool of legally owned guns (Shung-King *et al.*, 2005:2). They believe that the political history of South Africa also played a role in generating illegal guns with regard to the armed struggle when firearms came into South Africa illegally and on the other hand, the South African apartheid regime also illegally exported guns to arm sympathetic neighbouring states (Shung-King *et al.*, 2005:5).

Gould and Lamb (2004:201) indicate that more firearms are lost/ stolen each calendar year than recovered. They report that between 1994 and 2003, 208 090 firearms were lost/ stolen, of which only 153 462 were recovered. The unrecovered arms are in the wrong hands. Kirsten (2008:5) also believes that the majority of weapons entering the illegal market in South Africa is as a result of loss by licenced sources. Between 1994 and 1999, a total of 99 409 firearms were reported stolen and 13 283 were lost, which amounts to 112 692 firearms lost/ stolen in five years, of which 63 703 were found/ recovered (Chetty, 2000:40). By implication, 48 989 firearms were still in illegal hands at the end of the reporting period.

There is, however, a huge debate on the accuracy of the lost/ stolen firearms database, due to penal provision attached to such conduct by the Firearms Control Act 60 of 2000. A prominent case study on theft of firearms undertaken by SAPS Crime Information

Analysis Centre (CIAC) in Gauteng indicated that most firearm thefts occur in suburbs over weekends and in the evenings. The study indicated further that the reporting period of such thefts/ losses varies between 24 hours and one year, with 52.2% in the 24 hours category, 63.3% in the 48 hours category, 73.6% within a week, 83.2% within a month and 92.8% within a year (Chetty, 2000:45).

Generally, crime trends suggest that firearms are increasingly used in crimes such as murder, gun -related activities and household victimization (Jefferson, 2001:26). It then becomes obvious that the higher the level of violent crimes indicated above, the higher the number of firearms in circulation.

1.7.4. Smuggling of firearms

South Africa shares borders with six countries in the region and since the 1994 elections, it is inter linked to almost the entire international world. By implication, as the countries share other goods, they also tend to share crimes, such as the smuggling of drugs, firearms and stolen cars.

Gamba (2000:7) is of the view that some pistols and revolvers are smuggled through the sea and air borders of South Africa from countries like the United States, China, and Eastern Europe. Gamba (2000:17) also believes that the main source of illicit firearms in the country prior to 1994 was derived from outside the South African borders, with supply mostly destined for political and liberation movements. He indicates further that after the 1994 elections, the socio-political and economic situation in South Africa gave rise to criminals who were familiar with firearms contacts outside the country, as well as the old routes used during the liberation struggle to continue with firearm smuggling for criminal use.

1.7.5. Gun control

Gun control includes a range of legislative measures which places various restrictions on the acquisition, possession, use, sale and production of firearms. In New York state the court defined the level of state control over firearms in the case of *Hamilton v*

Accutec as a practice where it is required of a purchaser to produce a licence or permit to purchase a gun or ammunition, restrictions on multiple purchase of firearms, enforcement of a waiting period for buyers, and dealers reporting all sales to the police (Parnell, 2009:18). The ideal situation is to limit access to certain types of firearms or to preclude certain types of people from acquiring firearms (Robin, 1991:11). It is believed that effective enforcement of firearm legislation could have prevented the Colorado incident, where a gunman acquired four guns, including a high caliber rifle and continued to shoot and killed 12 people at a packed cinema and injuring 55 others (Pretoria News, 2012:1). Robin believes that regulating basic conditions of firearm usage and by sifting legitimate gun users will ensure that guns are kept out of wrong hands.

People deemed to be high risk group are those known to be prone to violence, irresponsible or unrealistic people, those with criminal records, drug addicts, alcoholics and those with records of mental instability (Robin, 1991:12). Robin argues that the so called risk group still manages to buy guns from dealers due to poor enforcement and ineffective mechanisms to detect their ineligibility prior to sale. The current FCA makes provision for firearm background checks prior to approval of firearm licences. The challenge according to Bopape (2008:138) is still to establish an effective manner in which such background checks are conducted with regard to the choice of people to be interviewed and the manner in which interviews are done. In the wake of the Newtown shooting, the USA President Barack Obama called for stricter background checks on all gun sales, to ban military assault weapons and high capacity magazines and to provide funding to investigate the causes of violence (Obama's gun war, 2013:26). The USA president concluded that the USA wants to identify the shooters before they have a chance to kill and prevent them from having access to the most lethal weapons.

One of the fundamental roles of government is to ensure the safety and security of its community. The Delhi Declaration on people's rights to safety defines safety as a state in which all dangers that cause physical, psychological, and material harm are controlled in order to safeguard the health and wellbeing of individuals and communities

(Jaynes & Meek, 2010:3).The fundamental issue of self-protection according to Lott (2010:13), is a protection from violence which the country's legal system cannot adequately provide to all the people. Bekoe (2006:25) reports that many states in Africa fail to safeguard their communities due to lack of capacity and resources to patrol borders and rural areas. Bekoe points out among others, the lack of basic resources like petrol for police vehicles as an inhibiting factor that denies communities of their basic services to such an extent that Kenyan people in the rural areas opted to arm themselves so that they can protect themselves.

Safety may, according to Lott (2010:18), be improved by discouraging actions that bring about undesirable consequences. Lott explains irrational behaviour, citing an example of an employee Mr. X who got angry at his boss for not promoting him. Mr. X bottled the anger and when he got home, took it out by kicking his dog. According to Lott, workplace discipline and criminal processes discouraged Mr. X from venting his anger on his boss, colleagues or family members. Mr. X chose a dog, because it is a "low-cost" victim. In economic terms, the costs of Mr. X's actions are very high and he minimized the bad consequences of venting his anger by choosing to kick a dog instead. The fact that Mr. X first considered the consequences of his actions tells a living tale of the importance of having effective and strict gun controls. Jaynes and Meek (2010:3) also emphasise that the objective is to develop mechanisms to control danger on a continuous basis. By implication, safety as a human right means that firearm control needs to be prioritised as a core human right issue and it confirms the social bond theory that suggests that all people would commit crime if there were no 'controlling forces' that restrain an individual from engaging in crime (May & Jarjoura, 2006:105).

It is a challenge to realize that legal firearms are still abused in domestic violence, suicides and other family related violence, despite what firearms opponents regard as an overregulated environment. On the other hand, legal firearms get into illegal pools at an alarming rate and are used in the commission of violent crimes. The relevant question then becomes, does the firearm legislation sufficiently address firearm-related

problems (Smythe, 2004:19). On the 14th of February 2013, Reeva Steenkamp died at the hands of her boyfriend Oscar Pistorius by means of a licenced firearm; in 2009, a Johannesburg man, Warren Vorster, killed his domestic worker's 12 year old grandson thinking he was a robber; and in 2004 a retired rugby player Rudi Visagie shot and killed his 19 year old daughter, thinking she was a car thief (Tracey, 2013:1).

The Minister for Women, Children and People with Disabilities, Lulu Xingwana, called for stricter gun control after the death of Reeva Steenkamp at the hands of Olympic star Oscar Pistorius in a domestic related violence incident (Stricter gun control needed, 2013). The Minister pointed out that if there is a gun in the house there is more danger than when it is not there. She indicated that domestic violence becomes even more deadly when legal or illegal guns are present in the house, because they could be used to threaten, injure or kill the victims, who in most cases, happen to be children and women. Tracey (2013:1) also emphasises the fact that had the firearms not been present, the victims in the above- mentioned cases would still be alive.

A retired New Zealand judge, Sir Thomas Thorp, as quoted by the ISS in Bopape (2008:36), reiterates that gun registration is an acceptable norm and the cornerstone of gun control. He believes that the registration process holds gun owners responsible for their firearms, decreases the criminal use of guns, reduces illegal trade in guns and defuses domestic usage thereof.

Meek (2002:59) highlights in the ISS discussion paper that insecurity, whether based upon the reality of criminal activity or merely its perception, is the key factor that drives the demand for firearms. It thus becomes important to identify what the community believes are the most pressing priorities for improving safety when tackling crime and firearm- related offences. Meek further indicates that if a community believes in impractical or tried-and-failed policies, policy makers need to embark on public awareness and educational campaigns to bring them on board.

The Firearms Act is, according to Brunet and Goode (2006:18), a valid criminal legislation because it possesses all three criteria required for a criminal law, inter alia:

gun control due to inherent danger posed by guns on public safety; regulation of guns as they are deemed dangerous products; and it is connected to prohibition backed by penalties. They further highlight that for one to be eligible to lawfully possess firearms, the firearm administrator needs to consider and analyze public safety, because guns are dangerous and pose a public safety risk.

In emphasising the extent of global firearms challenge that needs to be managed, Squires (2000:2) cited the Canadian court ruling in *R v Wiles* where it was ruled that possession and usage of firearms in Canada is not a right or freedom guaranteed, but a privilege. The same court emphasised that the safety of the applicant and the public need to be considered when a decision on firearm ownership is made. A concerned resident from New York is reported to have said “it is better to be judged by twelve than be carried by six” (Squires, 2000:3). By implication, the licence may be denied or revoked if there is a legitimate concern that the applicant or licence holder lacks the responsibility and discipline the law requires of gun owners.

Proper registration, licensing of firearms and effective policing thereof is among the key control measures that can help the police to prevent and detect crime, as well as apprehend suspects. The court ruled in the urgent case of *AfriForum* regarding the accreditation of firearm service providers that the current accreditation processes contained in the Firearms Control Act 60 of 2000 accredit the environment adequately. This follows the request by the SA Police that all service providers in the firearms industry should apply for accreditation with SA Professional Firearms Trainer Council (SAPFTC) before the 1st of November 2013. *AfriForum* took the matter to court on the grounds that the board members of SAPFTC are service providers themselves, which by implication means that they will be able to manipulatively regulate their business competitors to their own advantage (Legalbrief Today, 2013).

Proactive firearm licensing measures will enable police to arrest people carrying unregistered firearms due to strict stipulations in the FCA that require every person who carries a firearm to be in possession of a valid firearm licence. With the detection and

apprehension of suspects, cities like New York in America made it an offence to carry a loaded firearm, because it is believed that nobody carries a loaded gun unless he plans to use it either in robbery, assault or murder. As such a loaded gun and/or illegal firearm found in possession of a person may be a proceed of burglary, theft, armed robbery, or any violence- related activity which may be tracked down to the scene of crime in case of arrest or discovery (Krcma, 1971:2). Squires (2000:189) however, have some reservations that need further investigation. He is of the view that it will be difficult to track back sources of illegal firearms due to the fact that few weapons used in crime were traceable back to the sources.

The former Commissioner of Botswana Police, Commissioner Moleboge, indicated that small arms that find their way into the hands of wrong people result in the loss of lives and property as a result of car-jacking and armed robbery (Safer Africa, 2003:31). The United Nations also felt that there was a link between arms and the value of peace and security and it adopted policies to encourage the disarmament and non-proliferation, as well as arms limitation to curb the illicit traffic in small arms and called for control mechanisms relating to these arms at regional and sub-regional levels (Spijkers, 2011:182).

1.7.6. Role of Criminal Justice System in making firearm policing effective

It is widely believed that effective policing, as well as heavy sentences, have a deterrent role in reducing firearm-related violence/ incidents (Wellford *et al.*, (2005:9). Wellford *et al.* believe that strict firearm policies generally do not affect the ability of law abiding citizens to keep guns for recreational or self-defence purposes, whilst they have the potential to reduce gun violence by deterring violent offenders. Lott (2010:19) also believes that people commit fewer crimes if criminal penalties are more severe or more certain.

Amnesty International (2005:16) believes that effective enforcement of the Domestic Violence Act can be a success, if coupled with a robust firearm registration system. In situations where violation of the Domestic Violence Act necessitates confiscation of the

perpetrator's firearm, there will be a need for accurate records of licenced firearms in the perpetrator's name. Amnesty International cited an incident in New South Wales, Australia where the police had to act on restraining orders and continued to search the perpetrator's house where they confiscated five guns. Amnesty International indicates further that the police did not have knowledge of the sixth gun that the perpetrator used to kill six more people, including the victim who initially secured a restraining order. In the above scenario, a sensible argument would be that the police would have acted differently if they knew how many firearms were registered in the perpetrator's name.

Prohibitions in the United States for example, include among others, prohibition on the possession of firearms by a previously convicted person, prohibition on gun possession in gun- free zones which are punishable with a sentence of up to ten years and a mandatory 30 years for using or carrying a machine gun or assault weapon and even worse, a mandatory life sentence for those caught carrying a machine gun or assault weapon for a second time (Harcourt, 2003:7). The deterrent effect of penalties is substantiated by Lott (2010:21) when he indicates that he believes increased penalties in the USA for using guns in the commission of crime does reduce crime even more than the state –mandated waiting periods and background checks before allowing people to purchase guns.

Tighter regulations of legal weapons were presented as a classic case of the stable door after the horses had bolted (Squires, 2000:189). Squires indicates that the leakage of a few weapons into illegal pools could seem a minor question in comparison to larger already existing pools of illegal weapons. He cites a shooting lobbyist who suggested that police efforts ought to be directed towards more effective control of illegal weapons, rather than continuously harassing law abiding shooters.

The criminal justice intervention in the United States took the form of gun courts which target gun offenders for quicker and sometimes tougher processing in community courts; enhanced sentencing with a minimum sentence or extra prison time for firearm-related transgressions; and problem-orientated policing which seeks to address

unlicensed or unlawful carrying of a firearm in public places. Harcourt (2003:7) confirms the minimum sentence when he indicates that U.S firearm law has recently been strengthened by introducing a minimum sentence of five years and maximum of 30 years, depending on the type of firearm and whether it was discharged or not. Amnesty International (2005:11) also believes tighter small arm policies that focus on how private individuals acquire guns and how they store them are likely to reduce the risk of gun violence. It reports that Canada tightened its gun laws in 1995 and by 2003 the gun murder rate dropped by 15 percent. Australia did the same in 1996 and by 2003 their gun murder rate was down by 45 percent (Amnesty International, 2005:14).

According to Wellford *et al.* (2005:230), problem orientated policing focuses on problem identification, analysis, response, evaluation, and adjustment of the response to address a variety of crime and disorder concerns. They believe that high police visibility in hot spots will reduce the illegal possession, carrying and usage of firearms in gun violence and among violent gun offenders.

1.8 Outline of the research report

The research study is divided into the following chronological chapters:

Chapter 1 presented a general orientation to the study and more specifically, the research problem, aims and objectives of the study. The chapter emphasised the identification of problem areas in the policing of firearms and the endeavours to improve such policing.

Chapter 2 provides a background to the legislative framework governing firearms on the Continent and in South Africa.

Chapter 3 provides details of the literature on which the research is based. The chapter analyses international best practices in the policing of firearms, with specific reference to development of arms control internationally, regionally, in BRICS countries and in South Africa.

Chapter 4 encapsulates the description of the research methodology. The research methodology entails a survey study, based on interviews conducted with police and non-police participants. The chapter further discusses the research design, the sampling, the population, the data collection method, as well as the data analyses. The impact of the FCA in policing firearms and the enforcement thereof by law enforcers are analyzed and gaps identified.

In **Chapter 5** empirical data is presented and enriched with in vivo quotations, matching tables and figures where applicable.

Chapter 6 focuses on the analysis of data collected from the interviews and the discussion of the results. It further provides a detailed analysis of the data gathered. The responses are interpreted to arrive at factual findings and make sound conclusions and informed recommendations. Findings are compared to the existing theory espoused in chapters 2 and 3.

Chapter 7 concludes the study with a summary, conclusions and recommendations of the research and a proposed firearm policing model for South Africa.

1.9 Conclusion

The primary aim of chapter 1 is to introduce the study by setting out the background to the concept of firearm policing, as well as the factors that influenced the study. The chapter has also set out the structure of the research by providing a summary of what the various chapters of the study will entail.

CHAPTER 2

LEGISLATIVE FRAMEWORK REGULATING FIREARMS

2.1. INTRODUCTION

In 1874 rules of issuing firearm permits were regulated by circular 4 of 1874 which allowed a magistrate to issue gun permits only to Africans who were 'fit' to possess guns, but without defining how fitness is determined (Storey, 2008:330). Storey indicates that when Africans questioned the restrictive policy on guns, the British colonisers brought in the requirements of weapon skills as a pre-requisite to promote and impose British restrictive policies.

Studies exploring possible reasons or explanations for the high crime index in South Africa have been conducted and multiple factors are believed to be contributing causes thereof. Potgieter, Ras and Nesser (2008:33) believe increase in the crime rate is due to the democratic transition that South Africa went through. Other reasons for the high levels of crime is said to be the culture of violence in South Africa. The political history of South Africa is believed to have weakened the family units and thus parental control over children, which subsequently encouraged the youth to participate in criminal behaviour which then developed into a destructive culture (Schoenteich & Louw, 2001). Schoenteich and Louw explain that South Africans have a tendency to resort to violence as a means of solving conflicts, whether it is in a domestic, social or work related environment and that is fuelled by a weak criminal justice system and the abundant availability of firearms.

A variety of crimes, ranging from domestic disputes to armed robberies and murders are committed with firearms by people who legally or illegally possess those firearms as indicated above. Police actions directed at curbing this pandemic seem to hit solid rock with increasing firearms proliferations due to lost and/ or stolen firearms. Kirsten (2008:5) quotes a superintendent who was the commander of a firearm tracing unit on the subject: "The majority of new weapons entering the illegal market in South Africa

are as a result of theft from and loss by licenced sources such as state security officers in the police and military as well as individual civilian owners through house break-ins or direct theft". In essence, the statement questions the effectiveness of firearms control. Leño (2004:37) is adamant that national laws managing the possession, manufacturing and usage of firearms must be part of the strategy to reduce availability of firearms within a country, because most illicit weapons were first diverted from legal sources.

The Firearms Control Act, Act 60 of 2000 was proclaimed to control legal firearms and reduce proliferation, as well as the easy availability of small arms in South Africa. The ideal behind the FCA 60/2000 was to address firearm-related crime by removing illegally possessed firearms from society. While taking cognisance of the constitutional as well as human rights of individuals, the FCA 60/2000 is in line with the government commitment to reduce the flow of illegal firearms into South Africa and to prevent legally owned firearms from becoming illegal through criminal activities. However, the success of any policy is measured by how it is implemented (Pelser & Louw, 2002:1).

Most African countries do not have proper policies to effectively regulate firearms and cannot account for missing firearms, some of which are smuggled across the countries' borders. Countries like Botswana and Malawi were still using manual firearm data bases in 2004 and that made it difficult to timeously trace missing firearms, thus resulting in poor control. Swart (2012) indicates in her presentation "An African contribution towards a strong Arms Trade Treaty" that the widespread availability of weapons facilitates violations of international law. She emphasises that "as long as weapons are easier to obtain than the food in many parts of the world, but less strictly regulated than medicines, civilians will pay the price in preventable death". Swart's statement supports the address to the UN Peace and Security Council by the former Secretary General of the United Nations, Mr Kofi Annan, who indicated that despite a decline in attacks of one state by another, far more people are killed in civil wars, ethnic cleansing and acts of genocide, fuelled by weapons widely available in the global bazaar (Spijkers, 2011:203).

It becomes a challenge for authorities to improve control over illegal firearms due to the huge number of legal firearms which enter the illegal pool through smuggling, loss and thefts. The report released by SAPS in 1995 confirmed this: “the illegal importation and smuggling of firearms into South Africa, as well as the theft and robbery of firearms in legal possession, and legal firearms reported lost, are certainly the most important factors contributing to the apparent general availability of illegal firearms in South Africa” (Gould & Lamb, 2004:133). Gould and Lamb further indicate that the availability and alarming rise in the theft of firearms reported lost, exacerbate the incidents of violent crime. The Minister of Police, Mr Nathi Mthethwa indicated in his address at an Institute for Security Studies Conference that the police strategy to ensure that all law abiding citizens enjoy safe lives is hampered by the acts of criminality, including the proliferation of firearms (Understanding the perspective of crime, 2011:2).

Gamba (2000:16) indicates that the number of firearms lost or stolen from private possession is often underreported due to penalties attached to the negligent loss of a weapon and such practice compromises the integrity of the firearm database. These are some of the gaps that need to be benchmarked against international standards and closed. This chapter will endeavour to give an overview of the regulatory framework regulating firearms in South Africa.

2.2 INTERNATIONAL REGULATORY FRAMEWORK ON FIREARMS

The United Nations (UN) is an international organ which can intervene by joining forces on the basis of consensus, whenever international peace and security is threatened. It runs programmes promoting peace, development and poverty reduction (Spijkers, 2011:4). Its purpose, among others, includes maintenance of international peace and security by taking collective measures for the prevention and removal of threats to peace in conformity with principles of justice and international law (White, 2002:12). Spijkers states that through international dialogue, global consensus has been achieved on principles, values and norms which are codified in chapters, conventions and resolutions.

In 1978 the General Assembly of the United Nations declared that every nation and every human being had the inherent right to life in peace and states therefore have corresponding obligations to secure a life of peace for all their citizens (Spijkers, 2011:202).

The United Nations Organisation provides the framework in which the states are required to fulfil their responsibilities (Spijkers, 2011:150). According to White (2002:15), the United Nations Security Council has mandatory legislative powers regarding collective security and has executive powers to enforce those decisions. The local firearms legislation in every country determines the type of weapon mostly used in crime. The UK, for example, has stricter control on rifles than on shotguns and consequently shotguns are most popularly used by criminals due to their easy availability (Warlow, 2005:38). Kellerman (2012) supports the statement in his address on reducing the human cost of poorly regulated arms when he indicates that each member state is obliged to develop national legislation to ensure compliance with UN treaties. In terms of section 231(3) and (4) of the South African Constitution (South Africa, 1996), an international agreement needs to be enacted into law through national legislation.

2.3. REGIONAL REGULATORY FRAMEWORK ON FIREARMS

The 2001 UN programme of action on small arms requires all participating states to implement a wide range of measures to control small arms which includes safe storage of weapons, destruction of surpluses, proper marking and tracing of weapons, as well as reporting of transfers, control of manufacturing, dealing, brokering and exportation in an effort to prevent arms getting into the wrong hands (Amnesty International, 2005:57). The Southern African Development Community (SADC), in compliance with that and other UN treaties, developed a SADC protocol on the control of firearms. In 2002, the Southern African Regional Police Chiefs Co-operation Organisation (SARPCO) was established to oversee the implementation of the SADC protocol on firearms, ammunition and other related materials (Sabala, 2004:17).

In terms of article 7 of the Protocol on the Control of Firearms, Ammunition and other related materials in the SADC region, state parties undertook to consider a coordinated review of national procedures and criteria for issuing and withdrawing of firearm licences, as well as establishing national electronic databases of licenced firearms, firearm owners and commercial firearm traders within their territories (Stott, 2003:11).

Legislative measures proclaimed in article 5 of the SADC Protocol stipulates that state parties undertook to include a total prohibition of the possession and use of light weapons by civilians, centralization of civilian owned firearm registration, provisions to ensure the effective control of firearms including the storage and usage thereof, as well as competency testing of prospective firearm owners and restriction on owners' rights to relinquish control, use and possession of firearms, ammunition and other related matters (Stott, 2003:11).

Other regional firearm legislative frameworks include the Bamako Declaration. Paragraph 3A (ix) calls for the conclusion of a binding agreement between state parties to strengthen regional and continental co-operation (Sabala, 2003:50). The South African parliament adopted the SADC policy on small arms and cross- border crime prevention and the implementation of the SADC protocols in 2003, which enabled the South African Police Service to participate in regional operations such as "Operation Mangochi", "Operation Scorpion", "Operation Green Mamba", "Operation Katse", and "Operation Rachel" in Mozambique among others (Sabala, 2004:50).

The former President of Botswana, Mr Festus Mogae, indicated in his address to the 2003 conference on firearm control in Botswana that Southern Africa experiences the worst form of armed conflict, using light weapons during liberation struggles (Safer Africa, 2003:39). The former president stated that criminals increasingly operate across borders, which calls for coordinated programmes with neighbouring states to address the challenge. In terms of paragraph 3A(ii) the Bamako declaration calls upon member states to put in place structures to address the problem of small arms and light weapons at both national and regional level and to enhance the capacity of national law

enforcement and security agencies that can effectively deal with all aspects of arms problems (Sabala, 2004:22).

2.4 LEGISLATIVE FRAMEWORK REGULATING FIREARMS IN SOUTH AFRICA

The increasing crime situation in South Africa prompted government to initiate a number of crime combating initiatives, including the National Crime Prevention Strategy of 1996, the National Crime Combating Strategy of 1996, the National Crime Combating Strategy of 1998, the White Paper on Safety and Security of 1998-2003, the Integrated Justice System (IJS), the adoption of the National Prosecuting Authority Act 32 of 1998, the National Prosecuting Authority Act 32 of 1998, and the National Prosecuting Authority Amendment Act 61 of 2000 (Pelser & Raunch, 2001), as well as other initiatives. All those resulted in a joint government approach to address crime in South Africa.

The majority of offences are regulated by statutes just like offences relating to firearms which are Acts of Parliament (English & Card, 2007:2). Joubert (2001:3) indicates that South African law stems from common law, statutory law (legislation), the Constitution and case laws. Joubert says that each statute is named in accordance with the matter that it deals with and numbered according to the year of promulgation, hence the Firearms Control Act 60 of 2000 which regulates firearms in South Africa.

The purpose of the firearm legislation in general is not whether gun control is good or bad, whether the law is fair or unfair to gun owners, or whether it will be effective or ineffective in reducing the harm caused by the misuse of firearms, but to effectively control and manage them (Brunet & Goode, 2006:18). Pelser and Louw (2002:1) believe that it is rather important to close the wide gap between policy and practice, which is what is believed to be attributing to failure of most legislation.

Brunet and Goode (2006) point out that the Firearms Act is intertwined with criminal law and it is directed to enhance public safety by controlling access to firearms through prohibition and penalties. They also believe that the primary purpose of the Firearms Act is to deter misuse of firearms, control those given lawful access to firearms and

access to certain kinds of weapons. The two terms, 'deter' and 'prevent' as used interchangeably can be confusing at times. Pelser and Louw (2002:1) believe that to prevent something means that you have the ability to predict its occurrence and the ability to intervene to stop it from happening whilst to deter is more discouraging the act to happen. Effective prohibition of at-risk people from accessing firearms will prevent firearms from getting into the wrong hands and stiff penalties on firearm misuse are likely to deter firearm owners from misusing them.

There were 4 544 705 firearms in South Africa in 2000 of which 3, 5 million were registered to private individuals and 2 784 420 were handguns (Chetty, 2000:33). The figure has since risen to 5 950 000, as recorded in 2010 (Alpers, 2011). In an effort to address the proliferation of firearms, the South African government undertook to reduce the number of illegal small arms in circulation nationally and to reduce the number of illegal weapons flowing into South Africa (Reyneke, 2000:110). Reyneke reports further that the South African authority also established a National Conventional Arms Control Committee at cabinet level to consider all arms export applications on state-to-state basis and to prohibit supply to states involved in conflicts or governed by military dictators.

The South African Firearms Control Act (FCA) 60/2000 which replaced the Arms and Ammunition Act 75/1969 was enacted to introduce a more vigorous firearms control process and procedure in South Africa, as well as to provide specific policing actions aimed at reducing firearm crime and violent crime (Tracey, 2011:1). The purpose of the FCA is to enhance the constitutional rights to life and bodily integrity; prevent the proliferation of illegally possessed firearms by providing for the removal of those firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms; establishing a comprehensive and effective system on control and management; and ensuring the efficient monitoring and enforcement of legislation pertaining to the control of firearms (Goliath, 2004:20).

In addition to the sections dealing specifically with firearm transgressions like illegal

possession thereof, the FCA makes provision for the presumption for possession, failure to report lost, stolen or destroyed firearms and negligent loss of firearms among others (Goliath, 2004:22). Tracey (2011:2) agrees with Goliath on the effectiveness of the FCA. He is convinced that despite numerous amendments and much criticism by various interest groups on the FCA, it can be factually argued that the FCA contributed immensely to the reduction of violent crime in South Africa.

Records from the National Injury Mortality System (NIMSS) indicate that between 1999 and 2007, the number of firearm-related incidents has decreased, especially contact crimes like murder and attempted murder which decreased by 50 percent, street robbery by 10.4 percent and carjacking by 6.8 percent (Leshner, Altevogt, Lee, McCoy & Kelley, 2012: 53). Based on the above deliberations, the reduction can be attributed to the FCA which was proclaimed in 2000 and which became operational in 2004, which falls within the NIMSS reporting period.

The discussion that follows gives a legislative flow of regulatory framework leading to the birth of the Firearms Control Act 60 of 2000 and other matters relating to the policing of firearms in South Africa.

2.4.1 THE CONSTITUTION OF THE REPUBLIC OF SOUTH AFRICA

Despite the right enshrined in the Constitution, many South Africans' safety is still in danger, despite the 50 percent reduction in overall firearm-related deaths between 1995 and 2009 (Jaynes & Meek 2010:1). Jaynes and Meek are of the opinion that violence and firearm-related deaths are controllable and are preventable. The choice to use a gun in perpetrating crime in itself signals the criminal intention to harm the victim and enables one to easily convert intention into action (Robin, 1991:3). Robin is also of the view that criminal intention violates the right to life of others and needs to be addressed.

The charter on the Bill of Rights in the Constitution (1996) provides for the rights of all people in South Africa. Section 11 and 12 of the charter give all people in South Africa the right to life and the right to be protected from all forms of violence, while section 7(2)

obliges the state to respect, protect, promote and fulfil the rights enshrined in the Bill of Rights. The Bill of Rights applies to all laws and binds all legislatures, the executive, the judiciary and all organs of state. Spitzer (1998: xii) indicates that the state has a responsibility to regulate all aspects that has the potential to endanger the safety of the citizens and to maintain public order.

The Constitution of the Republic of South Africa (1996), Section 205 (3) enjoins the South African Police Service (SAPS) to combat, prevent and investigate crime, to maintain public order, protect and secure the inhabitants of the Republic and their property, and to uphold and enforce the law. Legislation like the Constitution is aimed at ensuring safety by protecting citizens and obliging the state to provide adequate security.

The South African government, through its constitution, upholds the rights of South Africans and all those who live in it. Those rights include the right to life and the right to security of the person, which further includes the right to be free from all forms of violence. The Firearms Control Act 60 of 2000 was enacted to enhance the constitutional rights to life and bodily integrity, improve control over legally possessed firearms to prevent crime involving the use of firearms, establish a comprehensive and effective system of firearm control and management, and ensure efficient monitoring and enforcement of legislation pertaining to control of firearms.

2.4.2 THE SOUTH AFRICAN POLICE SERVICE ACT 68 OF 1995

The South African Police Service (SAPS) is part of the security service establishment of South Africa in terms of Section 199 (1) of the Constitution of the Republic of South Africa, 1996. In terms of Section 198 (c) of the Constitution, National Security must be pursued in compliance with the law and international law. Section 205 (3) of the Constitution 1996 provides that the South African Police Service must maintain public order, protect and secure the inhabitants of the Republic and their property and uphold and enforce the law.

Section 214 (1) of the Constitution of the Republic of South Africa provide for the establishment of the South African Police Service which is responsible for amongst other:

- Ensuring safety and security of all persons and property;
- Upholding and safeguarding the fundamental rights of every person;
- Prevention, combating and investigation of crime.

The Police Act makes provision for the SAPS as the body entrusted in securing the wellbeing of the inhabitants of South Africa and will be failing its mandate if it does not provide safety and security. Through its political head, the Minister of Police, the South African Constitution requires the executive member responsible for policing to devise ways and means of fighting crime in South Africa, hence the drafting of the White Paper on Safety and Security (1998) and the establishment of the Firearms Control Act 60 of 2000.

2.4.3 1998 WHITE PAPER ON SAFETY AND SECURITY

The objective of the White Paper is among others, to provide strategic priorities to deal with crime and the role of safety and security within the constitutional framework. The White Paper on Safety and Security (1998) provides the Department of Safety and Security with the means of realising their vision and improving safety of South African citizens. This Paper views the concept of Safety and Security from two perspectives, namely, policing and law enforcement and crime prevention, particularly social crime prevention. The rights enshrined in the Constitution of South Africa aim to ensure safety by, among others, providing adequate protection from those who perpetrate crime.

The White Paper on Safety and Security (1998) with its social crime prevention leg, not only focuses on causes of crime, but casts its net wider to also deal with factors that contribute to the occurrence of crime. It focuses on an offender based strategy of known criminals, those thought to be at-risk of offending, and aims at ensuring positive behavioural change. Examples of such strategies are environmental design, improvement of surveillance mechanisms through better lighting, and designing

systems to restrict the availability and usage of firearms (White Paper on Safety and Security, 1998).

The proliferation of firearms is hinted at as one of the main causes of crime in the 1996 National Crime Prevention Strategy (NCPS) which is provided for in the White Paper on Safety and Security (1998).

2.4.4 THE 1996 NATIONAL CRIME PREVENTION STRATEGY

The National Crime Prevention Strategy (NCPS) of 1996 provides a framework for a multidimensional approach to crime prevention from the crime control and crime prevention perspective. Among NCPS priorities is to set programmes in place that would address factors which create risk of offending, and factors that create a risk of victimization.

The International Centre for Crime Prevention believes that handgun availability increases the likelihood of victimization (Mufamadi, 1993:2). International patterns suggest that firearm-related crime increases rapidly during periods of political transitions, as seen in Eastern Europe in the final days of the former Soviet Union, and in Namibia just before and after its independence (Mufamadi, 1993:2). The same may be ascribed to South Africa during the transitional process. Mufamadi also believes that the shift of government from an apartheid regime to a democracy in South Africa resulted in the destruction of social control. The NCPS as a strategic crime prevention framework had to address the easy accessibility of firearms through strict control and regulation on the issuing of firearm licences.

In May 1996, the government of South Africa released the NCPS which highlighted the need for firearms control, and identified firearms as facilitating the perpetration of crime. The document also highlighted that the availability of firearms increased the risk of victimization in South Africa. In response to the firearm threat caused mostly by the flow of firearms and ammunition from licenced owners to criminals, the government prioritised legislative and administrative control to promote responsible firearm

ownership by implementing the Firearms Control Act (FCA), 2000 (Act 60 of 2000).

2.4.5 THE FIREARMS CONTROL ACT 60 OF 2000

The Firearms Control Act (FCA) 60/2000 was enacted in 2000 and implemented in 2004 to replace the out-dated Arms and Ammunition Act 75/1969 in line with the Constitution of South Africa and the Police Act. The purpose of the FCA was among others to enhance the constitutional rights to life and bodily integrity of everyone in the country, to prevent the proliferation of illegally possessed firearms by making provisions for the removal of those firearms from the society and to improve control over legally possessed firearms; to enable the state to control the supply, possession, safe storage and to detect negligent and/ or criminal usage, and to establish an effective system of firearm control and management.

In South Africa the right to possess a firearm is not guaranteed by law. According to Section 6(2) of the Firearms Control Act 60 of 2000, only firearm applicants who are in possession of a competency certificate may apply for a firearm licence. Applicants must provide genuine reasons to possess a firearm, for example hunting, target shooting, collection, personal protection and/or security. Applications for firearms collection, target shooting and hunting need to be substantiated by additional attachments from respective associations of farm owners of the farms where the applicants intend to hunt (Bopape, 2008:168).

The minimum age for gun ownership is 21 years, with some exceptions for applicants who conduct business, or are gainfully employed in the firearm industry, are dedicated hunters or sports persons, or are private firearm collectors (Section 9(2) of the Firearms Control Act 60/2000). The firearm applicant must further pass background checks which consider his/her criminal, mental, medical, domestic violence, addiction, employment, and previous firearm history, such as a past refusal of competency certificate or an unfitness declaration. The background check and character reference consider, among others, the involvement of the applicant in domestic violence and the generic misuse of firearms (Section 9(2) (l) of Firearms Control Act 60 of 2000). The background check is

corroborated by a character reference for each firearm licence the applicant requires.

A person who is mentally unstable is, according to the evidence presented in the Stellenbosch court, a danger to others. A psychologist gave expert evidence in the Stellenbosch court that a Stellenbosch student murderer suffered from serious untreated and unmanaged psychological conditions, including a pervasive developmental disorder, obsessive compulsive disorder, major depressive disorder and Asperger Syndrome which made him socially inept (Cape Argus, March 2012:2). Another incident involves an alleged mentally unstable student constable who is accused of shooting and killing a Soweto teenager whilst he was not supposed to have been carrying a firearm, because he was mentally unstable and was declared unfit to possess a firearm by the local designated firearm officer (The Star, 2012:3).

As indicated above, the firearm applicant must have a competency certificate before he/she applies for a firearm licence. Among the primary requirements for a competency certificate are character and background checks, as well as a proficiency certificate that certifies that the applicant has an understanding of firearm safety and the law and has been tested in a theoretical and/ or practical training course required for the type of firearm for the type of firearm licence the applicant requires. Such practices are aimed at improving control over firearms to avoid situations like the Pennsylvania incident where the father bought his 11 year old son a 20-gauge shotgun for Christmas and the son used that firearm to shoot his father's pregnant fiancée before getting on the school bus to school (Mail & Guardian, 2009:02).

In South Africa firearm applicants are allowed one firearm per firearm licence for civilian ownership (Section 13 of the Firearms Control Act 60/2000). By implication there is a separate licence for each firearm. In terms of Section 13 of the Firearms Control Act 60 of 2000, only one firearm in the form of handgun, or shotgun may be issued for self-defence. A rifle may be issued in exceptional cases for restricted self-defence in terms of Section 14 of the Firearms Control Act 60 of 2000. A maximum of four firearms may be issued for occasional hunting and/or sports shooting in terms of Section 15 of the

Firearms Control Act 60 of 2000. Categories between Section 16 and 18 of the Firearms Control Act 60 of 2000 include dedicated hunting and/or shooting, and stipulate that professional hunters and collectors may possess more than four firearms, depending on individual motivation for the need. Firearm applicants need to renew their firearm licences every 5 to 10 years depending on the category, for control purposes.

All other firearm contraventions and prohibitions, including offences that may be committed using a toy gun are contained in Section 120 of the Firearms Control Act 60 of 2000. Toy guns are not regarded as firearms under the Firearms Control Act 60 of 2000, however pointing a toy gun at a person constitutes an offence. In 2006, the man who held a Department of Home Affairs employees hostage with a toy gun was sentenced to one year behind bars (Toy-gun hostage taker ..., 2008:1). Another toy gun caused a man his life in Willowvale in the Eastern Cape when police shot and killed him for pointing a toy firearm which they believed to be a real gun at them (Suspect killed after ..., 2012:3). The Minister of Police, Mr Nathi Mthethwa, tabled the Dangerous Weapon Bill before parliament in February 2013 which seeks to prohibit amongst others the use of toy guns to commit crime. The Minister indicated that the rationale for such enactment was that replica firearms often look exactly like real firearms and can be used in the commission of crime (Dangerous weapon bill ..., 2013).

According to the Firearms Control Act 60 of 2000, records and databases of individual firearm owners are kept by the Registrar on behalf of Government, whilst dealers and manufacturers keep records of their stock on behalf of the Registrar. Dealers and manufacturers are however obliged to send a return of their stock to the Registrar on a monthly basis and produce for inspection whatever stock is in possession on request of the authorized law enforcement agency. Sales of firearms may be done privately between individuals or via a registered firearm dealer. All processes are done through the Designated Firearm Office for administration and certification/ licensing.

2.4.5.1 THE SAPS FIREARM STRATEGY

In South Africa the control of civilian firearms possession, usage and exportation is contained in the Firearm Strategy 2001/ 2002, with the focus on eradicating the proliferation of firearms for use in crime (Sabala, 2004:35). The South African Police Service is the custodian of the firearm policies and is therefore responsible for the control of small arms and light weapons.

The 2001/2002 SAPS firearm strategy was developed with the aim of eradicating the proliferation of firearms for use in crime and violence in South Africa based on the following five pillars (Gould and Lamb 2004:147):

- Development and maintenance of appropriate firearm regulated regulators. This strategy entailed developing policies, procedures and operational directives to enable the effective implementation of the Firearm Control Act (FCA).
- Development and maintenance of effective control procedures regarding firearms. This pillar was meant to capacitate police stations with both human and physical resources to administrate the FCA.
- The reduction and eradication of the illegal pool and the criminal use of firearms. With this pillar, authorities intended to analyse dysfunctions of firearm control, detection of illegal firearms' origin, linkage of firearm cases and criminality, interventions in organised firearm incidents and cross border operations.
- Prevention of crime and violence through awareness and social crime prevention partnerships. This entails working with the community and other institutions to prevent crime. Initiatives like firearm free zones form part of this strategy.
- Regional firearms intervention. The ideal was to reduce the proliferation of firearms for use in crime and violence in the Southern African Region.

The above pillars were meant to facilitate the implementation process of the FCA and are all in place (Gould and Lamb 2004:147).

2.4.6 POLICING OBJECTIVES AND PRIORITIES

The National Commissioner of the South African Police Service must, in terms of Section 11(2) (a) of the South African Police Service, Act 68 of 1995 set out policing priorities and objectives for each financial year. Firearms have featured prominently in the policing priorities and objectives since 1998/1999 and continue to feature post 2004/2005, which was the implementation year of the Firearms Control Act 60 of 2000 (Bopape, 2008:69).

In his opening remarks for the 2011/2012 policing objectives and priorities, Minister Mthethwa indicated that the fundamental aim of government is to build a society where all law abiding citizens will enjoy dignified and safe lives (Policing Priorities and Objectives, 2011/2012). The Minister indicated that the key focus for government will be addressing the proliferation of firearms. The key departmental programme 2011/2012 for Visible Policing includes among others, increasing the number of recoveries as a result of policing by focusing on stolen and lost firearms, as well as increasing the recovery of state owned firearms.

The official political opposition in government slammed the increasing number of firearms lost or stolen from police. The Democratic Alliance (DA) said in parliament ‘the police are unwittingly fuelling the illegal arms trade by ordering new pistols to replace those that have been stolen or lost’ (DA slams ‘shoddy firearm ...’, 2010:1). The DA indicated further that of great concern is that these firearms end up in the wrong hands and are used for criminal activities.

2.4.7 THE STRATEGIC PLAN FOR THE SOUTH AFRICAN POLICE SERVICE 2010-2015

The strategic plan 2010-2014 lays out an operational framework for the policing of the country in that time frame. The Minister of Police, Mr Nathi Mthethwa, indicated in his opening remarks that the strategic plan was aligned to the electoral cycle to give full effect to the government medium term strategic framework (2010:ii). The operational

priorities of SAPS, according to this plan, is the reduction of crime levels by among others reducing illegal firearms (2010:12).

The President of the Republic of South Africa, Mr Jacob Zuma, remarked in his 2011 State of the Nation Address that “we are working hard to ensure that everyone in South Africa feels safe and is safe. We will take further our work to reduce serious and violent crime, and ensure that the justice system works efficiently ...” (2010:8). The current legislation from the Constitution of the Republic of South Africa, the South African Police Act, the National Crime Prevention Strategy are the cornerstones of government’s legal and policy instruments to fight crime and need to be implemented accordingly, hence the SAPS strategic plan.

Minister Mthethwa indicated further in his address that the department’s strategic plan not only builds on the success achieved in the past but also charts a new direction for the Police to ensure that they remain focused and relevant to the policing requirements in a changed and developmental state (2010:ii). The crime prevention pillar of the strategic plan for South African Police Service 2010-2015 focuses on the reduction of serious crime, contact crime and trio crimes. The strategic plan sets clear values that are aimed at rendering effective, efficient and impartial service by among others:

- Protecting every one ‘s rights and being impartial, respectful;
- Being open and accountable to the community;
- Providing a responsible, effective and high quality service with honesty and integrity;
- Cooperating with the community, all levels of Government and other role players.

This plan provides a broad overview and the annual plan will provide specific details on priorities, objectives and outputs for each year in the four year plan. The above values are living evidence of how the Police Service values the safety of all South Africans. The correct implementation of these values at all levels of the organisation will ensure a safe and secure country.

2.4.8. SAPS ANNUAL PERFORMANCE PLAN 2012/2013

Section 11 (2) of the South African Police Service Act, 1995 (Act 68 of 1995) requires the National Commissioner of the Police to develop a one year plan that sets out policing priorities and objectives for the following financial year. The SAPS Annual Performance Plan for 2012/13 is guided by the Medium Term Strategic Policy statement, 2010; the Presidential State of the Nation Address, 2011; the SAPS Strategic Plan 2010-2014; The Delivery Agreement for the Justice Crime Prevention and Security Cluster (JCPS cluster) and the Estimates of National Experience (ENE) 2011 (2011:1).

Among revised legislature that is prioritised for the 2012/2013 financial year is the Firearm Control Amendment Act (FCAA), 2006. The FCAA of 2006 makes provision for the renewal of competency certificates in respect of firearms and places an obligation on owners of muzzle loading firearms to obtain competency certificates, which is believed to promote responsible ownership and safe usage of those categories of firearms.

In Programme 2 of the Annual Performance Plan 2012/2013 which deals with the prevention of crime, the management of the Firearms Control Act 60 of 2000 by the SAPS was identified as a strategic priority. This strategic focus entails capacitating the Central Firearm Registry with adequate numbers of personnel and the appropriate skills. The ideal strategy is aimed at addressing the backlog of applications for firearm licences, permits, authorization and renewals, as well as effective and timely (within 90 days) management of new firearm applications.

The Division Visible Policing is the division responsible for the administration of firearms in South Africa and accountable to draw up a performance plan in order to operationalize the SAPS Annual Plan which will be executed by the Provinces and police stations (SAPS Annual Plan 2012/2013). The Division Visible Policing committed itself to eradicate the proliferation of firearms for the availability and usage in crime and

violence, as well as ensuring compliance and enforcement of legislation controlling those environments in their 2012 Divisional Plan.

2.5 CHALLENGES FACING PRACTICAL IMPLEMENTATION OF THE FIREARMS ACT EFFECTIVELY

Most African countries do not have proper policies to effectively regulate firearms and cannot account for missing firearms, some of which are smuggled across the country borders. Some African countries like Botswana and Malawi use manual data bases and that make it difficult to timeously trace missing firearms.

It is also a challenge for authorities to improve control over illegal firearms due to the huge number of legal firearms which enter the illegal pool through loss and thefts. The report released by SAPS in 1995 confirms this concern (Gould & Lamb, 2004:133). The SAPS report indicated that "the illegal importation and smuggling of firearms into South Africa, as well as the theft and robbery of firearms in legal possession, and legal firearms reported lost, are certainly the most important factors contributing to the apparent general availability of illegal firearms in South Africa. The availability and alarming rise in the theft of firearms reported lost, exacerbate the incidents of violent crime" (Gould & Lamb, 2004:134). The other area of concern involves improper regulation of other weapons that resemble firearms. The U.S Federal Energy Management Improvement Act 1988 requires that all toys or a firearm look-a-like has a blazed orange plug in the barrel, denoting that it is a non-lethal imitation (Parnell, 2009:75). Parnell states that the U.S also banned the manufacture, import, possession, and transfer of firearms not detectable by security devices like metal detectors, through the U.S Undetectable Firearms Act of 2003, also known as the "plastic guns legislation". The Firearms Control Act 60 of 2000 is silent about the above two concerns and is only vocal once the weapon has been used in the commission of crime.

The South African Police Services (SAPS) developed a five pillar firearm strategy as a framework for the implementation of the Firearms Control Act 60 of 2000 (Gould & Lamb, 2003:147). Pillar 1 of the strategy was meant to develop processes for the

smooth flow of firearm applications and pillar 2 was aimed at developing capacity in the form of human and physical resources to administrate the process.

The firearms strategy was rolled out and was met with practical challenges. Kirsten (2008:174) identified one of the challenges facing the effective implementation of the Firearms Control Act 60 of 2000 as the administrative capacity of the Central Firearm registry to process both new gun-licence applications and firearm renewals. The sentiment was confirmed in the judgment of Judge Bill Prinsloo when making a ruling in the urgent court application to nullify certain sections of the Firearms Control Act 60 of 2000. The judge indicated that the SAPS completely lacked the capacity to deal with the overwhelming logistical demands flowing from the implementation of the new Act (Gun ruling welcomed, 2009:2).

On the 2nd of November 2010, the Minister of Police, Mr Nathi Mthethwa, formed a task team to implement a turnaround strategy for firearm applications (Minister Mthethwa urges firearm ..., 2011). This strategy, according to the Minister's office, was meant to ensure that all applications for firearm licences, competency certificates and renewals are finalised by end of August 2011. Unfortunate incidents depicting challenges facing the effective administration of the Firearms Control Act 60 of 2000 continued to re-surface, way beyond the anticipated deadline. SA Sports Safari cc filed a case with the North Gauteng High Court for their four imported hunting shotguns which took seven years to be finalised. The court ordered the police to print the licences in five days and hand them over to the applicant, as the police system reflected that they have been approved (Court orders gun licences ..., 2012:9).

Allan Storey, the chairman of Gun Free South Africa (GFSA) also questioned the effectiveness of administration at Central Firearm Registry, after so called notorious underworld figures who confessed to the murder of the mining magnate Brett Kebble and were known to have long histories of violent behaviour, were re-issued with firearm licences (Saturday Star, 2012). Storey pointed out to the provision of Section 9(2) (d) of the Firearms Control Act 60/2000 which restricts firearm licences to applicants who are

'of stable mental condition and not inclined to violence'. He further indicated that the provision of the FCA indicated above is applicable to all firearm applications, whether it is a new application or a renewal of a firearm licence. Tracey (2013:9) corroborates the concern of Storey when she raises misgivings surrounding the appeal board, following an incident where Oscar Pistorius's firearm application was rejected based on a poor background rating and the appeal board approved the licence which was later used in the murder of his girlfriend. She adds that had the appeals board not overturned the initial decision not to grant Pistorius a firearm licence, things could have turned out differently.

A further challenge to proper implementation of the Firearm Control Act is the incorrect interpretation of some sections within the Act. The provision of Section 6 which deals with the abuse of alcohol is one of those sections. A professional hunter was refused competency to possess a firearm based on a drunken driving case where he was convicted and fined R2000 (Gun licence refusal ..., 2013). In February 2013 a Pretoria high court ruled that a drunken driving conviction where a firearm was not involved does not justify an automatic unfitness declaration. The acting Judge indicated that although driving a vehicle while exceeding the blood-alcohol level was an offence, it did not fit a description of abuse of alcohol. He reiterated that although people contravene the law through drunken driving, they are not all unfit to possess a firearm, especially when a firearm was not part of the drunken driving arrest.

The other area of concern is the level of corruption among firearm administrators and law enforcers, despite numerous attempts to address that pandemic. In the public service, the Treasury Regulation (2005) requires departments to develop a risk management strategy, which should be accompanied by a fraud prevention plan. The National Treasury (2010:51) recognises fraud risk management as an integral part of strategic management. A fraud prevention plan is a key element of an effective and efficient internal control system (Gloeck & de Jager, 2005:49). The development of a fraud prevention plan requires an inclusive process that needs to be communicated to all employees (Gloeck & de Jager, 2005:64). It is according to King II (2002) report also

critical that employees are trained in the implementation of the fraud prevention plan. According to Gloeck and de Jager (2005:51), deterrents such as warning signs, reference checks on employees and training can minimize occurrences of corrupt incidents.

Whistleblowing have been identified as one of the effective means to address corruption in state departments. In supporting the culture of whistleblowing, employees should be assured of protection. Whistle blowers also have the responsibility to make the disclosure in good faith (McCann, 2009). Seng (2009) recommends incentives for employees who makes disclosure on corrupt behaviour rather than it be left to the employees to be seen whether they will in any case choose to make disclosure out of moral obligations or to do as their conscious dictates. According to Eaton and Akers (2007), without incentives, there seem to be little willingness or motivation for people to come forward and blow the whistle. Unless the whistle blower is protected, it is difficult for people to come forward.

In South Africa, whistle blowing is encouraged through the Protected Disclosure Act 26 of 2000. The legislative framework provides for disclosing, protection and remedies for employees from occupational detriment occasioned by making a protected disclosure. However, there appears to be an assumption that a person's identity will have to be revealed when making a disclosure. This is a very general protection, which has no guarantees of returning to work in the event the case being decided in the favour of the employee. Currently the whistle blower may have to risk dismissal and have to bring a claim in court which may take years to be heard. Ethics awareness campaigns must encourage confidential reporting along line management. They should also be given an option to remain anonymous when they contribute.

The continuous monitoring of processes and procedures will also assist in identifying any changes in risks and ensure that internal controls continue to operate effectively (COSO, 2009). Failure to monitor risks could therefore adversely affect the strategic objectives of the organisation. If risks are regularly monitored, the organisation should

be able to react appropriately to the risk. Continuous monitoring includes regular management and supervisory activities. The management's response to risk could include avoiding, accepting, reducing or developing a set of actions to align risks with the organisation's risk tolerance and risk appetite (Blackwood, 2009:76).

2.6. CONCLUSION

The use of firearms is part of history both in South Africa and internationally and firearms were mostly used in wars and for hunting purposes. Modification of firearms and the level of violence led to the shift in focus and firearms were then used as self-defence tools. The political instability post 1994 era led to mass influx of weapons across the borders and eventually a need to have self-defence weapons for those who felt threatened by firearms influx increased.

Authorities didn't keep pace with the influx of firearms and the environment was left far too long not effectively regulated. Firearms in turn got in the hands of wrong people as a result of theft, negligent loss and were used to settle scores in gang related fights and to rob people of their hard earned belongings. Handguns emerge to be mostly used type of firearm in crime due to its size and of course easy accessibility.

South Africa, just like the international world, was caught off-guard when violent crime rapidly increased and therefore re-actively introduced the Firearms Control Act 60 of 2000 in an effort to effectively control the current pool of firearms in circulation and to restrict risky individuals from accessing firearms at the entry point. Corruption and fraudulent activities seem to be obstacles for the effective implementation of the FCA.

CHAPTER 3

INTERNATIONAL BEST PRACTICES IN THE POLICING OF FIREARMS

3.1. INTRODUCTION:

The purpose of a literature review, according to Trafford and Leshem (2008:73,79), is to secure command of the relevant literature through a comprehensive coverage of the field being studied; understand the breadth of context in the disciplines that are appropriate to the study; critique the various established positions and traditions in those disciplines; engage critically with other related work in the field; draw on literature with a focus that is different from the main viewpoints in the research and explain the relevance of that literature; maintain a balance between delineating an area of debate and advocating a particular approach; justify the claim that research outcomes are a contribution to knowledge; create a foundation for the theoretical framework used in data analysis and confirm the intellectual foundation for a gap in knowledge.

This chapter focuses on the overview of international and regional approaches to firearm policing. Internationally, the focus will be on the BRICS countries of Brazil, Russia, India, China, including South Africa, and regionally the firearm policies of the neighbouring Southern African Development Community (SADC) of Botswana, Lesotho, Swaziland, Mozambique, Namibia and Zimbabwe will be explored. The geographical layout of most SADC countries results in the very easy cross border influx of firearms between adjacent countries.

The former chairperson of SADC Strategic Indicative Plan for the Organs on Politics, Defence and Security Cooperation (SIPO), Mr Pakalitha Mosisili, indicated in his address to SIPO that the vision of SADC should remind states and citizens of their historical bonds, underpinned by their shared future and that it serves as an instrument for dealing with the Southern African region's political, defence and security challenges (SADC Strategic indicative plan ..., 2004:5). Mr Mosisili emphasised that partnership in SADC countries is vital in realization of peace by addressing organised crime, management of refugees, post conflict reconstruction and reintegration programmes, as

well as the combating of illicit trafficking in small arms and light weapons. It thus becomes imperative to investigate practices in those countries to identify shortcomings in the region and suggest improvement of practices.

South Africa joined the BRIC countries because of common socio-economic situations. There is a firm view that the BRICS countries have much in common so they can learn from one another. Based on this assumption, this research will seek to determine the best firearm policing practices from countries with similar developmental potential, as well as the possible challenges and then develop a firearm policing model for South Africa.

3.2. Overview of problems experienced with the policing of firearms

While crime is viewed by the general public as the most challenging problem facing society, violent crime is regarded as the most serious and fearful kind of crime (Kleck & Patterson, 1993:149). Violent crimes and most un-natural deaths in South Africa are believed to be as a result of the easy availability of firearms (Tracey, 2011:1). Tracey believes that handguns are the most preferred weapon of choice in the execution of violent crimes which affect societal security negatively. Tracey (2011:1) s statement is in agreement with Kleck and Patterson (1993) s earlier viewpoint that even if violence is difficult to reduce through deliberate government efforts, it may be reduced through the regulation of weapons, especially firearms.

The role of government is to ensure the safety and security of its community. The Delhi Declaration on People's Rights to Safety (2000: 3) defines safety as a state in which all dangers that cause physical, psychological, and material harm are controlled in order to safeguard the health and wellbeing of individuals and communities (Jaynes & Meek, 2010:3). According to them the objective is to develop mechanisms to control danger on a continuous basis. The South African Constitution is in agreement with this viewpoint. By implication, safety as a human right means that firearms control needs to be prioritised as a core human right issue.

Community policing is still key to effective policing at all levels, including the enforcement of the firearm legislation. Prenzler (2012:20) believes that successful policing relies on the ability of police to secure compliance and cooperation from the public. Prenzler stresses that police legitimacy helps foster compliance and cooperation, which eventually increases the public's willingness to intervene in community problems and subsequently enhances the police capacity to control crime and disorder. He believes police can successfully do that by following principles of procedural justice, which includes neutrality of decision making, treating citizens with respect, demonstrating trust to citizens and allowing citizens to participate or voice their concern through interactions. In relation to firearm policing, the community may interact with the police when a decision is made on a firearm application.

Despite Prenzler's views above, there are still both liberal and conservative arguments on the issue of controlling gun possession, with conservatives arguing that no gun control legislation can effectively control gun possession among criminals because they do not use legal means to obtain guns. Liberals, on the other hand, feel that guns cause crime and must be controlled (May & Jarjoura, 2006:161). According to Amnesty International (2005:11), a study conducted in the USA shows that several factors may contribute towards a woman being killed by her husband, but ready access to a gun increases the risk fivefold. The study also indicated that having a gun in the home increased the overall risk of someone in the household to be murdered by 41 percent. The latter challenge purports that policing of firearms is not only limited to physical police patrols and roadblocks, but also entails the policing of who acquires a firearm and whether such a person is fit to possess such a firearm.

The challenge is still to determine an effective manner in which such background checks can be conducted with regard to the choice of people to be interviewed and the way in which interviews are done (Bopape, 2008: 138). In Britain for instance, firearm legislation makes provision for local police officials to carry out background enquiries to check upon intended usage of the weapon. If, for example the applicant intends using a .22 rifle for vermin control in a small garden, chances are he may not safely do so

without endangering the safety of the community (English & Card, 2007:762). According to English and Card, the inspecting police official in such a case will endorse a safety hazard and such firearm licence application will not be approved.

The Institute for Security Studies in their paper on “Arms Management Programme” indicates that community perception of firearms and security reflects the actual reality of firearm proliferation (Weiss, 2002:2). Weiss argues that fear of armed robbery, for example, may be a driving force for firearms as a tool for self-defence, even if incidents of armed robbery are relatively low. He believes a positive approach towards such a situation would be to seek to increase the sense of security by increased police visibility and in that way diminish the perceived need to possess firearms.

It is disturbing that legal firearms are still misused in domestic violence, suicides and other family related violence, despite the fact that firearms opponents regard our country as an overregulated environment. On the other hand, some legal firearms get into the illegal pool at an alarming rate and are used in the commission of violent crime. The relevant question then is whether the current firearm legislation sufficiently addresses the firearm-related problems (Keegan, 2005:25).

Meek (2002:59) highlights the fact that insecurity, whether based upon the reality of criminal activity or merely its perception, is the key factor that drives the demand for firearms. It thus becomes important to identify what the community believes are the most pressing priorities for improving safety when tackling crime and firearm-related offences. Meek indicates that if a community believes in impractical or tried-and-failed policies, policy makers need to embark on public awareness and educational campaigns to bring them on board.

Firearm legislation is, according to Brunet and Goode (2006:18), a valid legal instrument because it possesses all three criteria required for a criminal law, *inter alia*, gun control due to inherent danger posed by guns on public safety; regulation of guns as they are deemed dangerous products; and it is connected to prohibition backed by penalties.

They further highlight that for one to be eligible to lawfully possess firearms, the firearm administrator needs to consider and analysed public safety because guns are dangerous and pose a public safety risk.

To emphasise the fact that the policing of firearms is a global challenge that needs to be managed effectively, the Canadian court ruled in *R v Wiles* that possession and usage of firearms in Canada is not a right or freedom guaranteed, but a privilege. The court indicated that the safety of the applicant and the public needs to be considered when a decision on firearm ownership is made. By implication, the licence may be denied or revoked if there is a legitimate concern that the applicant or licence holder lacks the responsibility and discipline the law requires of gun owners. A New York resident who was concerned about the control level of firearms remarked that he will comparatively chose to be judged by twelve juries than be carried by six pall bearers (Squires, 2000:3).

Registration and licensing of firearms are among the control measures that can help the police in policing firearms, as well as by apprehending suspects. The statement was reiterated by a retired New Zealand judge, Sir Thomas Thorp, who indicated that gun registration is an acceptable norm and cornerstone of gun control (Bopape, 2008:36). He emphasises that the registration process holds gun owners responsible for their firearms, decreases the criminal use of guns, reduces illegal trade in guns and defuses domestic usage thereof. By so doing, the process will enable the police to arrest people carrying unregistered firearms because of strict stipulations in the act that requires every person who carries a firearm to be in possession of a valid firearm licence. With the detection and apprehension of suspects, cities like New York made it an offence to carry a loaded firearm, because it is believed that nobody carries a loaded gun unless he/she plans to use it either in robbery, assault or murder. As such, a loaded gun and/or illegal firearm found in possession of a person may be a proceed of burglary, theft, armed robbery, or any violence related activity which may be tracked down to the scene of crime in case of arrest or discovery (Krcma, 1971:2). Squires (2000:189), however, have some reservations on that. He is of the view that it will be difficult to track back

sources of illegal firearms due to the fact that very few weapons previously used in crime were traceable back to the sources.

In South Africa, the non-reporting of lost/ stolen firearms causes imbalances in the firearm database. The police rely mostly on recovered firearms to establish the numbers of missing firearms, which in itself is a re-active approach. Background checks to sift out at-risk individuals also rely on references provided by the applicant who may have element of bias (Bopape: 2008:30). The pending court case on the green card licence is also hampering the renewal process, which is seen by many as a firearm audit to purify the firearm system. The South African Police Services rely on the firearm system to plan and execute their firearm-related operations and it becomes difficult to draw from inaccurate sources, thereby making it extremely difficult to accurately police possession of firearms.

3.3. INTERNATIONAL AND REGIONAL APPROACHES TO FIREARMS POLICING

South Africa is a developing country and can benefit from the best practices in the policing of firearms, from other countries. Despite demographic differences, the policing of firearms is also an aspect that can be developed by learning from best practices in other countries.

3.3.1 Policing of firearms internationally

The United Nations Economic and Social Council Commission on crime prevention held in Vienna in 1997 indicated that Australia, Canada and New Zealand placed restrictions on civilian ownership of all types of handguns. This helped those countries to reduce the level of handgun ownership, which is reported to be far below that of South Africa. Incidentally, their firearm-related crimes were also reduced decimally (Gamba, 2000:38). Stell (2004, 39) also emphasises the fact that countries with strict gun policies like Hungary, Denmark, Austria, Norway and France have a much lower gun crime prevalence. South Africa's firearm ownership is comparable to industrialised countries like Costa Rica, Spain and Greece and has fewer firearms than Australia, Canada and Sweden (Gamba, 2000:38).

Amnesty International (2005, 17) reports that secure storage conditions can reduce gun incidences in family violence cases. They indicate that countries like Australia, Canada, Japan and the UK require gun owners to store guns securely and to keep the ammunition in a separate place. In Belarus, guns must be kept disassembled, unloaded in locked boxes away from ammunition. Anti-gun lobbies even called for a total ban on keeping guns in private homes and restrict them to authorised gun clubs or police stations from where their owners could pick them up whenever they need to hunt or do sporting. Puryear (2008) supplies the following overview of gun storage options: A trigger lock device prevents the gun from being fired by a small child who picks it up. It can take the form of a plastic and metal lock that fits around the trigger to prevent it from being pulled, padlock that locks the action, or an open or a cable lock that does the same thing. Trigger locks may be to the disadvantage of the owner if he needs to use the firearm in an emergency as it takes time to unlock it and the trigger lock may cause excessive wear on the spring due to spring loaded squeeze pressure; Dismantled or broken down storage prevents the gun from being fired until it is assembled. This option may be viable for minor children and people who do not know much about firearms. However, thieves may steal a disassembled gun and assemble it elsewhere at their own convenience; Small safes can be hidden for extra security, but thieves are likely to take the entire safe during break ins and break it open elsewhere at their convenience; Large safes are the most secure way to store guns due to their special features to stop common burglaries and are fire-resistant (Puryear, 2008)

According to Columbia Encyclopaedia (2004), the United States of America (USA) is among the few countries where “the right of the people to keep and bear arms” is guaranteed by the constitution. The document indicates that through the years, states within USA tried to enforce stricter gun laws, but in 2002 the Justice Department, under Attorney General John Ashcroft, indicated that it interpreted the amendment to be supporting the rights of individuals to possess and bear firearms. On the other hand, the rights of individuals also need to be exercised taking the safety of the wider community into account.

The July 2012 Colorado, USA incident where a medical student used an automatic rifle to shoot at a cinema audience, killing 12 people and fatally injuring more than 50 others, increased calls for stricter measures in controlling firearms (Pretoria News, 2012:1). Public safety should have been considered above the applicant's needs when such a firearm calibre was considered. Harries (2012) reports that Holmes legally bought four guns, including a semi-automatic assault rifle, more than 6,000 rounds of ammunition as well as head-to-toe bullet proof protection. Holmes's character was also questionable, despite being raised in a stable middle class family. It is alleged that a year prior to the incident he tried to rent an apartment from one Aurora building manager, but was turned down despite good references and a clean criminal record, because of his suspicious appearance. A few months before the incident, a local shooting range owner where Holmes was a member overheard a vicious violent voice message on Holmes's phone but all that did not trigger suspicions of the planned massacre (Harries, 2012).

A USA survey on firearms in late 2012 indicated that 85 percent of the public favours background checks for private and gun show sales, 80 percent support preventing those with mental illnesses from purchasing a gun, 67 percent support a federal database that tracks gun sales and 58 percent are in favour of a ban on semi-automatic weapons (City Press, 2013:26). Despite the shock waves sent out by the shooting, there is little sign of political debate over the American gun law that is deemed to be too relaxed. Harries (2012) believes that gun control has grown even more lax since the 1999 Columbine school shooting in Denver which is just a few miles from Aurora.

The President of the USA, Barack Obama and his Republican challenger Mitt Romney, whose party base is opposed to gun control legislation have been reluctant to mention any support for tightening gun laws in their campaign speeches on the shooting tragedy (Harries, 2012). This silence led to the leading anti-gun campaigner Tom Mauser, whose 15 year old son died in the Columbine school shooting, to declare that America was simply bowing to the gun lobbyists. Some analysts believe that the silence of Barack Obama and the Republican Mitt Romney are simply political and none of them is prepared to make a statement that may jeopardise their political campaigns and

chances of their presidential election. That, to some extent, demonstrates the political currents which underpin policies of governments, of which firearm legislation is one.

Former Australian Prime Minister John Howard urged US President Barack Obama to take the gun control campaign to the people, as Australia did in their gun reform (Australia gun laws ..., 2012). Howard wrote in the New York Times after the US massacre that “I knew that I had to use the authority of my office to curb the possession and use of the type of weapon that killed 35 innocent people and I knew it wouldn’t be easy”. Howard pointed out that he felt it was unfair to penalise decent, law-abiding citizens, because of the criminal behaviour of others, but as head of state he felt there was no alternative. This was after Australia’s worst massacre in which Martin Bryant, a psychologically disturbed man shot and killed 35 people in Port Arthur, Tasmania. Studies showed a marked drop in gun-related homicides which went down by 59 percent and a 69 percent drop in gun-related suicides in the 10 years after the weapon crackdown. However, Howard’s positive move cost his political party almost one million votes in the ballot box and they narrowly avoided defeat.

3.3.1.1 An overview of international practices on firearms

In 1983, New Zealand passed legislation which did away with the registration of sporting guns which comprise 97 percent of privately held guns (Mistry, Minnaar, Redpath, & Dhlamini. 2002:55). They registered the remaining three percent of handguns, which led to the reduction of crime with registered firearms, but which led to an increase in crime with unregistered ones. They moved back to register all firearms and introduced a renewal system where the police posted letters to the firearm owner at the expiry of the licence; failure of which led to the cancellation of the licence after six months. According to Mistry *et al.* (2002:56), that led to a drastic reduction in firearm-related crimes.

Canada had a dysfunctional firearm registry system and invested billion dollars to upgrade its data base and processes (Quigley, 2003:3). Just like New Zealand, Canada did not register rifles and shotguns and that led to a shift in crime to unlicensed firearm usage, as well as domestic homicides, suicides and accidents. Some of the new

processes include firearm registry online, which facilitated the re-licensing of all firearms. Other developments in USA involve the National Instant Criminal Background Check System (NICS) which requires the Attorney General to secure relevant government records that may render a person eligible to be issued with a firearm licence and feed it to FBI administered NICS, so that federally licenced gun dealers can process a background check on the system to determine a customer's eligibility to possess a firearm before processing a transaction (Parnell, 2009:47). In essence that led to the reduction of firearm incidents.

Great Britain is one of the most developed counties in the world, but they are also cautious with strict gun laws in respect of who possesses firearms and for what reasons. Britain is also reported to have reduced firearm-related incidents by tightening control over 'who must bear arms'. A person wishing to possess a firearm in Britain must, according to English and Card (2007:761), be 18 years or older, provide information of previous convictions other than minor traffic offences, names and addresses of two persons who have agreed to act as references to the chief officer of police in the area where he/she resides. English and Card indicate further that information provided by the firearm applicant must be verified by each of the two referees through a signed statement. Once all is in place, the chief officer of police will satisfy himself that the applicant is fit, proper, not a prohibited person, evaluate the reasons provided for the firearm and ascertain that the applicant does, in all circumstances, not pose a danger to the public safety and peace (English & Card, 2007:761).

The following presents a summary of Britain's requirements for firearm certificates according to Saunbury and Doherty (2011:34):

- The firearm application process is handled by the police in Great Britain;
- Applicants obtain forms from the local police or internet, complete them and submit them to the police in the area where the applicant resides;
- People with more than one address need to apply using the address where they will be storing the firearm;

- A fee is payable when the application is submitted and refunded if the application is refused;
- There must be two referees who need to confirm the information provided by the applicant ;
- Applicants should submit four photographs that must also be endorsed by the referees as the applicant's current likeliness, namely the way he/she looks at the time of the application;
- Immediate family members, serving police officials and firearm dealers cannot be used as referees;
- Referees must be residents of Great Britain and should have known the applicant for at least two years and be of good character;
- Applicants applying for target shooting must have an official from such shooting clubs where they are members as referees;
- Providing false information on the application form and failure to disclose previous convictions, no matter how trivial, will result in the refusal of the application;
- A separate motivation for the need of each firearm must be provided;
- Access to storage facilities is a requirement and such facilities must be inspected by a police official.

In addition to the above, firearm certificates in Great Britain may, according to Saunbury and Doherty (2011:58), be refused if they have reason to believe that the applicant is of intemperate habits or unsound mind, pose a danger to public safety and peace, is prohibited by the Great Britain Firearms Act of 1968 from possessing a firearm and if the applicant does not have proper reasons to possess such a firearm. Warlow (2005:43) also emphasises the strict control measures in Great Britain. He reports that good reasons for firearm acquisition includes membership of a recognised shooting club with a range safety certificate, allowing the particular type of firearm and calibre, and authorisation for use of such rifle for sporting purposes must be accompanied by written permission from the landowner of the suitable grounds. The above measures have reportedly resulted in the reduction of violent and firearm-related incidents.

Parnell, (2009:40) and Johnson *et al.*, (2012:464) indicate that under the USA Federal Firearm Regulation, which includes the National Firearm Act of 1934, the Arms Control Act of 1968 and the Brady Handgun Violence Prevention Act of 1993, there are nine classes of persons prohibited from possessing firearms. They are classified as follows: Persons convicted in any court of a crime punishable by imprisonment for a term exceeding one year; fugitives from justice; drug users or addicts; persons with adjudicated mental defectives or committed to mental institutions; unauthorized immigrants and most non-immigrant visitors; persons dishonestly discharged from armed forces; U.S citizenship denunciates; persons under court-order restraints related to harassing, stalking, or threatening an intimate partner or child of such intimate partner; and persons convicted of misdemeanour or domestic violence. Robin (1991:12) argues that the so-called risk group still manages to buy guns from dealers as a result of poor enforcement and ineffective mechanisms to detect their ineligibility prior to sale. Cochrane (2013) indicates that in one county, officials say they have granted gun permits to at least three people whose visual impairments are such that they cannot legally drive. Soon after that, a blind man from New Jersey won his legal battle to keep and shoot guns which were confiscated by police after he accidentally shot himself in the leg. To make matters worse, in Michigan, blind people are permitted to hunt in the company of a sighted partner. In South Africa, the current FCA makes provision for firearm background checks and proficiency testing which involves practical shooting prior to approval of firearm licences.

Being mentally defective or being incompetent with regards to the possession of firearms was described by the US senate Judiciary Committee to include a ruling by a court, board, commission, or other lawful authority that a person as a result of marked subnormal intelligence, or mental illness, incompetency, condition, or disease is a danger to himself or others, or lacks the mental capacity to manage his own affairs. The senator also indicated that the stipulations include a finding of insanity by a court in a criminal case and those persons found incompetent to stand trial or found not guilty by reason of lacking mental responsibility (Parnell, 2009:49). A leading New York forensic psychiatrist, Dr Michael Stone, was quoted in *The New York Times*, highlighting the fact

that people with mental illness are more likely to be victims of violent crime and those who are suicidal have a much higher success rate when a gun is involved. Dr Stone indicated that states are not much concerned with protecting people against themselves, but focus mostly on protecting society against them (City Press, 2013:16). In 2012, the USA President, Mr Barack Obama, tasked USA Vice President Joe Biden, to lead a task team that would look into security issues, including school security and mental health after a mentally disturbed person killed his mother and 20 school children using a licenced military style assault rifle (...gun control, 2012).

Firearm purchases in the United States of America are controlled mainly by the National Instant Check System (NICS) (Johnson *et al.*, 2012:465). Johnson *et al.* indicate that the firearm purchaser fills in a form which carries a penalty of up to ten years if false information is provided, and submits it to the firearm dealer with a photo ID. The dealer submits the purchaser's information to the NICS telephonically or online, where after the buyer is screened against the national database. If the buyer is approved, the dealer receives a purchase authorisation number which is endorsed on the application form to verify compliance. Buyers not approved by the system may request a written explanation and if necessary supply additional or the latest information to correct any errors on the NICS database. Common mistakes on the NICS database include, inter alia, non-capturing of overturned convictions by the appeal body.

Australia introduced a total ban on military type rifles and shotguns to civilians; screening of firearm applicants; compulsory storage facilities, asking expensive prices for hunting weapons, a ban on self-loading weapons with detachable magazines holding more than five rounds, and strict criteria for a proficiency certificate for semi- automatic firearms (Kirsten, 2008: 13). The Australian Auditor-General commended the Australian government for successfully reducing the number of firearm incidents for the financial year 2003/4. Amnesty International (2005:17) reported that in 1990 the Australian Firearm Law was amended in an effort to reduce gun usage in violence. The Australians introduced the following changes to their firearms act:

- Minimum age for gun ownership was set at 18 years, applicant to have a clean criminal record, be a fit and proper person, has to undergo safety training and must provide genuine reasons for the need;
- Police were given the powers to take into account all relevant circumstances when deciding on a new or renewal firearm licence;
- People convicted of assault and domestic violence were banned from having a gun licence for at least five years;
- People with pending domestic violence restraining orders against them are subjected to compulsory seizure of all their guns;
- All guns must be registered at time of sale and when the licence is renewed;
- They introduced a 28-day waiting period to buy a gun;
- Applicant to provide genuine reasons separately for each gun;
- Restrictions on private gun sales. Gun sales streamlined only through a licenced dealer or the police; and
- Introduced strict storage requirements.

The 2004 report on the evaluation of Australian Firearms Act indicated that there was a dramatic reduction in firearm-related deaths (Amnesty International, 2005:17).

As a result of the inconsistent manner in which different countries administrate domestic violence, countries like Canada, New Zealand, Turkey and South Africa draw up a wide range of background information when deciding on the firearm licence to prevent at-risk groups from accessing firearms. Here are a few examples: Canadian gun law requires the applicant's current or former spouse or partner to be notified before a licence is granted or renewed; New Zealand police have the power to seek the opinion of an applicant's current or past spouse, while in Turkey applicants are required to provide a medical certificate attesting to their mental stability (Amnesty International, 2005:16). In South Africa, section 9 (2) of the Firearms Control Act 60 of 2000, prohibits the issuing of a firearm licence to a person with a record of domestic violence.

The above deliberation indicates that strict gun legislation, to some extent, assisted most international countries in reducing firearm-related incidents and are worth to be considered in crime prevention strategies.

3.3.2 The African Union perspective on firearms

The Organisation of African Unity (OAU) which later became African Union (AU) decided in the Yaounde declaration held in Cameroon from 8 -10 July 1996 to conduct an in-depth study into ways of reducing the proliferation of arms (Sabala, 2004:6). According to Sabala, the study was taken to new heights in May 2000 when African experts on Small Arms and Light Weapons (SALW) met in Addis Ababa, Ethiopia where it was agreed that Africa must adopt a common African position by aligning their policies, institutional arrangements, and operational measures for addressing the proliferation of SALW.

The outcome of the African experts forum, according to Sabala (2004:7), became OAU policy the following year under the Bamako declaration which, among others, calls for uniformity of freedom control legislation, strengthening the operational capacity of law enforcement agencies, increasing cross border co-operation between law enforcement agencies, collection and destruction of weapons, enhancing re-integration of ex-combatants, improving police/ community relations, and enhancing public education and awareness raising on firearms safety. Bekoe (2006:21) agrees with Sabala that regional protocols were meant to address how weapons enter a country, how they are distributed, and how they are controlled through efforts like registration. Bekoe, however, indicates that regional efforts to control illicit trade of SALW, as contained in the Bamako declaration and other related protocols were not properly implemented in some parts of Africa with some ministries not willing to relinquish control to the National Focal point.

3.3.3 Policing of Firearms in the Southern African Development Community

The Southern African Development Community (SADC) originates from the 1960s and 1970s Southern African Development Coordination conference (SADCC), when leaders of liberation movements coordinated their political, diplomatic and military struggle against colonial and minority rule in their Lusaka declaration (Gabriel: 2006). Gabriel reports that SADCC was transformed into SADC on the 17th of August 1992. The SADC comprises of 15 member states, of which Madagascar was suspended for overthrowing the government of the day through a coup d'état. The other members are Angola, Botswana, the Democratic Republic of Congo, Lesotho, Malawi, Mauritius, Mozambique, Namibia, Swaziland, Tanzania, Zimbabwe, South Africa and the Seychelles.

Civil wars in the Southern African Region contribute to the regional instability, which in turn results in the spillage of weapons into neighbouring states and the displacement of people (Wesson, 1999:4). Tracey (2012:11) agrees with Wesson and indicates that despite the political changes during the 1990s that resulted in peaceful resolutions of conflicts, illicit small arms remain in circulation and are widely used in crime and violence. Dr Greg Mills indicated in his address to the African Defence Review that “the adversaries of the world are not in conflict because they are armed. They are armed because they are in conflict and have not yet learned peaceful ways to resolve their conflicting national interests” (Mills, 1994:1). A similar concern was raised by Nkiwane *et al.*, (1999:1) when they indicated that the indiscriminate access to the tools of violence, namely weapons, makes it harder to maintain stability and development and also hampers peace initiatives.

Peter-John Pearson, a Catholic priest and activist working in the Cape Flats, believes that the presence of guns in any type of conflict, whether it is a conflict between national states or within states in the domestic sphere, prevents the kind of moral response that is required to avert violence (Kirsten, 2008:12). Nkiwane *et al.* indicate further that it is seldom, if ever, that weapons used in an armed struggle have been collected in totality.

The South African Defence Force (SADF) reportedly supplied 75 AK-47s to the Seychelles during their 1981 coup attempt, led by Colonel Mad Mike Hoare and those assault rifles were never retrieved or accounted for (Mills, 1994:3). The proliferation of firearms as a result of armed conflict spills over into the hands of criminals.

Hundreds of thousands of arms and ammunition were supplied to the African region during civil wars and liberation struggles over six decades (Gamba, 2000:3). The former Soviet Union, for example, supplied 10 000 small arms comprising of pistols, rifles, carbines and machine guns to the African National Congress during the apartheid struggle (Mills, 1994:3). The statement was supported by Dube (2012) in his address on “an African contribution towards a strong arms trade treaty” in which he pointed out that African states spend millions of rands importing small arms and light weapons and ammunition from Europe and are already regarded as a dumping site by most eastern Europe countries.

The socio-economic challenges facing the SADC region, in which some states do not have the capacity to carry out adequate policing, also contribute to rising crime and the illegal weapons proliferation (Wesson, 1999:5). Wesson states that in 1999, countries like Malawi, Mozambique and Tanzania were living with a GNP well under \$229 per capita per annum, whilst the Malawi, Zambia and Lesotho police were sometimes unable to carry out their normal policing functions due to lack of fuel and vehicles. Wesson believes that such challenges affected effective domestic gun control and contributed to the proliferation of small arms. Firearm experts and government officials also believe that the proliferation of small arms and light weapons in the region is a serious obstacle to security and sustainable peace due to the increased levels of violence and criminal activities (Gould & Lamb, 2004:319). Gould and Lamb reiterate the statement of Wesson above and highlight that in poverty -stricken countries like Angola, Mozambique and Zambia, firearms were exchanged for basic food like a bag of maize meal, a goat, chickens, and many more.

During the colonial wars in Africa, attention was focused on weapons of mass destruction due to its ability to pose a threat to human security. According to Leño (2004:8) international superpowers like the United States of America (USA) and the former Union of Soviet Socialist Republic (USSR) provided military support to states perceived as friendly and many small arms and light weapons (SALW) entered Africa in an unregistered manner. Mills (1994:3) reports that the former Soviet Union allegedly supplied seven weapons for each member of the SWAPO forces, whilst the United States supplied undisclosed numbers of weapons to Mozambique and Angola.

Other significant trends include the hiring of AK-47 rifles for a mere R250 in South African townships during unrest periods and R20 in Mozambique (Mills, 1994:4). Coetzee (2013) reports that poor countries do not have sufficient funds to buy firearms for their security forces and/ or to mark their firearms properly. He indicates that those countries end up using unmarked post-war weapons, which eventually makes it difficult to control those weapons.

After the 1994 democratic elections, South Africa opened up to the international world and was exposed to global crime trends which include the smuggling of drugs, illegal immigrants, firearms and other goods (Minnaar, 2005:23). Border policing, which is the mandated responsibility of the police in co-operation with other state departments, was relaxed and the criminals capitalized on that, hence the influx of illegal substances and weapons.

The Southern African Development Community (SADC) endorsed a regional programme on SALW in May 1998, which later gave birth to the SADC Firearms Protocol, which covers areas such as combating of illicit trafficking, promoting the removal of arms from society and the destruction of surpluses, and enhancing transparency, as well as information exchange and consultation (Sabala, 2004:9). In August 2001, SADC developed a protocol on the control of firearms and ammunition with the primary objective of preventing, combating and eradicating the illicit manufacturing of firearms, ammunition and other related matters (Stott, 2003:1). Stott

indicates further that the protocol seeks to regulate the import and export of small arms within the SADC region. Gamba (2000:3) identifies three types of proliferation typology. Among them are a source country, transit country, and end-user-country. The challenge becomes when the transit country becomes the end-user and Gamba is of the view that South Africa moved from transit between conflict- stricken Angola and Mozambique to become the user of most of those caches that changed direction in this country during the apartheid struggle.

In article 5 of the SADC Protocol on Control of Firearms, Ammunition and related matters, member states undertook to incorporate the following elements in their National laws: the coordination of procedures for the import, export and transit of firearm shipments; provisions promoting legal uniformity and minimum standards in respect of the manufacture, control, possession, import, export and transfer of firearms, ammunition and other related matters (Gould & Lamb: 2012:74). Other controls in the SADC protocol include, among others, the development of laws regulating the manufacturing, transferring, and possession of firearms; marking and record keeping of firearms; regulating arms brokers; disposal of state owned, confiscated or unlicensed firearms and voluntary surrendering of firearms (Stott, 2003:4). Coetzee (2013) indicates that the Regional Coordinating Committee (RCC) took a decision that all firearms in the region need to be re-marked, so that they can be traced back to the point of origin. Coetzee believes that even if the marking does not directly deter usage thereof, the state will be able to control and account for state firearms which contribute much to the high figure of stolen/ lost firearms.

In line with the protocol, the South African government took the first position in 1999 to destroy all surpluses, redundant, obsolete and confiscated small arms of a calibre below 12,7mm to avoid the proliferation of those common firearms (Stott, 2003:83). Such a bold decision was not easy in a country with more than a million firearm owners. The False Bay Gun Club, in collaboration with the Justice Alliance of South Africa, took the Minister of Police to court for compensation on destroyed firearms. On the 4th of December 2012, the supreme court of appeal ruled in favour of the Minister of Police

and stated that the state was not liable to pay compensation for destroyed firearms voluntarily surrendered for destruction (SAPS media Centre, 2012). Despite the court ruling, the community continued to surrender firearms. In April 2013, the SAPS destroyed 1136 firearms, of which 781 were legal firearms voluntarily surrendered by the community and 355 were confiscated by police during crime combating operations. Dube (2012) warns states and governments on stockpiling firearms. He cites stockpiling of firearms, lack of communication and non-compliance with treaties to be behind the explosion disaster that hit Brazzaville, Congo on the 9th of February 2012. Dube indicated in his address at the ISS summit on “the African contribution towards strong arms trade treaty” that the Congo is a member of the UN and there is a clause in the UN treaty that regulates the stockpiling of ammunition and the country failed to report such a pile-up which eventually led to a disastrous explosion that claimed hundreds of innocent lives.

As indicated above, among its primary objectives the SADC aims to streamline the firearms protocol in the region. Stott (2003:1) indicates that the protocol seeks to regulate the import and export of legal small arms within the SADC region. Objective 5 of the SADC strategic indicative plan is to develop close co-operation between the police and state security services of member states in order to address cross-border crime and to promote a community-based approach to domestic security. The proliferation of and trafficking of small arms and light weapons feature prominently among SADC challenges, together with drug dealing and trafficking, as well as HIV and AIDS. Mills (1994:1) indicates that the regional security is dependent on the security of individual member states. Mills brings it closer to home when he indicates that there will be no peace in South Africa without peace in the region and *vice versa*. Kellerman (2012) states that despite numerous treaties, the final decision to import / export arms are the sole decision of the sovereign state. Kellerman says that less vocal countries may end losing their identity due to the influence and suppression by the majority of states or states to the treaty.

In an effort to actively and effectively control the illegal proliferation in the region, the SADC countries adopted the SADC Firearms Protocol in 2001 (Tracey, 2012:11). The protocol was aimed at curbing and preventing the illicit manufacturing, trade, use of SALW and included firearm destruction. In 2008 a Standard Operating Procedure (SOP) for the implementation of the legal requirements of the SADC firearm protocol was developed to standardise, simplify and enhance the control and transfer of firearms in Southern Africa (Tracey, 2012:13). The SOP covers areas such as standard terminologies; minimum standards for marking firearms during manufacturing; licensing of civilian firearms, dealers, manufacturers, gunsmiths, as well as control measures over such issued firearms and the destruction of surpluses thereof.

Gould and Lamb (2012) reports that South Africa has since 1995 implemented the Arms Control Act, in line with the world treaties on arms and is therefore expected to play a meaningful role in African states in arms treaties. In the 1st half of 2013, the South African Police Service has already destroyed 6 201 firearms, comprising 2 065 from the Eastern Cape, 1 136 from North West and 3 000 from Gauteng (Tracey, 2013:1). It however transpired that South Africa still emerged on top of the chart with 3 735 civilian firearm ownerships by 2003, followed by Zimbabwe at 400 000 and Namibia at 97 00 (Nkiwane *et al.*, 1999:10). It is significant to observe the gap between these three African countries. Common causes for the firearm proliferation in African countries are losses, thefts and smuggling that fuel violent crimes. This study focuses on the SADC countries that share borders with South Africa, because of the common firearm- related challenges which are likely to call for common interventions.

3.3.4 Brief overview of the Regional approach to firearm policing

In the Southern African region arms can have detrimental effects if they are not properly controlled (Safer Africa, 2003:19). Safer Africa indicates that the unregulated trade of small arms can affect not only the country in crisis, but also neighbouring countries and severely destabilise a state or region to such an extent that it creates a culture of violence that makes the state or region ungovernable. SADC protocols

commit SADC states, through the Southern African Police Regional Police Chiefs Cooperation Organisation (SARPCO), to a legally binding regional small arms control policy to be implemented throughout by member states.

The SADC firearms protocol, according to Sabala (2004:9), outlines the following key control measures that are legally binding on state parties: Review and harmonisation of legislation governing the control of firearms, enactment of proper control over the manufacturing, possession and use of firearms and ammunition, improve storage and destroy surplus, reluctant or obsolete state owned firearms, ammunition and other related materials; raise awareness and educate the public on the impact of firearms and society; review control over state owned firearms; provide mutual legal assistance and exchange of information; ensure a standardised marking of firearms at the time of manufacture, exports or imports; and make provisions relating to brokers. The SADC protocols require states to enact legislative measures to control ownership and use of firearms, and to establish regional information databases on firearms. In the following, a brief overview of the SADC countries that share borders with South Africa will be given.

3.3.4.1 Botswana

Botswana shares boundaries with Namibia, South Africa, Zimbabwe and Zambia. Firearms in Botswana are regulated by the Botswana Arms and Ammunition Act of 1979 and The Botswana Arms and Ammunition Amendment Act of 1990, which the Commissioner of Police is responsible to administrate. According to Wesson (1999:6), as well as Gould and Lamb (2004:25), in comparison to other neighbouring countries, Botswana does not have many problems with firearm proliferation. The former Commissioner of Botswana Police, Commissioner Moleboge, remarked during the first National Consultative conference on firearms control in Botswana that, despite experiencing less violent crime than other SADC countries, Botswana is conscious of the fact that unregulated and uncontrolled firearms contribute to high levels of social instability in the form of violent conflict and other social disorders (Safer Africa, 2003:7).

Wesson (1999:8), supported by Gould and Lamb (2004:25), reports that all firearm applicants in Botswana, including hunters, are subjected to strict gun control and they all contest for the 400 licences, comprising 200 rifle and 200 shotgun licences on an annual basis. They indicate that a few exceptions are made for cattle farmers who can provide proof of a need to control predators. Gould and Lamb report further that firearm applicants are screened for a history of mental illness, criminal records and there is an age restriction of 18 years. The President of Botswana has the prerogative to appoint government representatives to serve on the 'Quota Board' that deals with the import and export of arms and to assist the Police Commissioner in the administration of firearms where necessary (Wesson, 1999:6).

According to Safer Africa (2003:23), delegates from the National Consultative conference on firearms control in Botswana, among others, recommended the following legislative reviews:

- The need to encourage surrendering of unlicensed weapons without fear of prosecution through processes like amnesty;
- The need to promote the handing in of unlicensed firearms that are no longer needed nor wanted;
- The need to consider making the firearm the property of the state with the person only retaining the right of use of the firearm;
- The need to include screening of firearm applicants by competency testing, safe storage facilities and safe-keeping, and regulations governing transportation of firearms;
- To set minimum standards for the possession and use of firearms, and for the securing of firearms at home;
- The need to extend the definition of small arms to include home-made weapons, air guns, pellet guns and cross-bows;
- The need to craft legislation to address negative effect of toy-guns and the potential of their misuse for criminal activities; and
- The need to review firearm administration to restrict firearm ownership to cases

where a real need exists, including a follow- up consideration of licences already issued.

Administratively, delegates expressed an urgent need to have a computerized central firearm register that can link up with the criminal investigations (Safer Africa, 2003:24).

In 1990, the Botswana government amended their Firearm Act to make provision for a total ban on handgun ownership and in 2002 there was a further amendment to prohibit firearm brokering (Wesson, 1999:6). Gould and Lamb (2004:26) indicate that, despite the tightened legislation and low firearm flow in the country, Botswana still experiences increases in firearm- related murders. They believe the problem goes beyond firearm regulation and relates more to policing challenges. In 1999, Botswana was still using a manual firearm data system (Wesson, 1999:8).

In an effort to address the proliferation of firearms, Botswana designed a long term vision, the Botswana Vision 2016, which aims to eliminate serious and violent crimes and the illegal possession of firearms to create a safe and secure environment (Safer Africa, 2003:21). In April 2002, the government of Botswana established a National Focal Point of Small Arms and Light Weapons, chaired by the deputy commissioner of police to look into gaps in the national legislation and regulations as part of the 2016 vision. Among the recommendations the committee made was the installation of screening equipment at ports of entry to improve control over firearms entering the country (Gould & Lamb, 2004: 37). The intervention, according to the Botswana Government, was a success and led to a reduction in the smuggling of firearms into Botswana.

3.3.4.2 Lesotho

Lesotho is geographically, in totality engulfed by South Africa. There are no recent records of civil conflicts in Lesotho, except for the 1970 coup by former Prime Minister Mr Leabua Jonathan, which led to the establishment of the Lesotho Liberation Army to fight Jonathan's regime (Wesson, 1999:11). Lesotho' s embattled economy impacts negatively on gun control due to some elements of dependency on South African

industries and mines. According to Wesson (1999:13), the proliferation of firearms is partially as a result of Basotho migrants smuggling firearms from South Africa to Lesotho and the revolt after the 23 May 1998 election results, when security services allegedly stole firearms and distributed them to protesters.

Firearms in Lesotho are regulated under the Internal Security (Arms and Ammunition) Act no. 17 of 1966. The Lesotho's Internal Security (Arms and Ammunition) Act no 17/1966 prohibits possession of firearms to people below 18 years, alcoholics, mentally disturbed people, people with violent criminal records and those who were sentenced to six or more years in jail (Gould & Lamb, 2004:65). Gould and Lamb report further that, before a firearm could be issued, the National Security Service conducts a background check on the applicant. Lesotho reportedly has the least firearm-related incidents in the SADC region.

The Lesotho Firearms Act 17 of 1966 makes provision for the involvement of the community when a firearm application is being considered. The application process requires the firearm applicant to obtain a confirmation letter from the village chief or headman that supports the application. The process was confirmed in Wesson (1999:11), in which it was indicated that the applicant must submit an application to the police at district level, accompanied by a recommendation from the local chief and then the district commander recommends to the commissioner of police, who makes a decision on the application. Dissatisfied firearm applicants may appeal in writing to the Minister of Home Affairs whose decision will be final. Gun Free SA (2003) indicated that firearms are subjected to a 5 years' renewal interval to enable law enforcement agencies to monitor firearm owners' compliance with legislation.

Non-compliance with the firearms renewal provision led to the Lesotho government establishing a counter-crime unit in March 1999 to locate unlicensed firearms, as well as un-renewed firearms (Gould & Lamb, 2004:65). The Lesotho government reports that the intervention was a success, because many un-renewed firearms were discovered, which by implication became illegal when they were not renewed.

3.3.4.3 Swaziland

Swaziland, a nation with 1.2 million people, officially known as The Kingdom of Swaziland, is landlocked and borders South Africa on the west, north and south, as well as Mozambique on the east. After the Anglo-Boer War, Swaziland became a colony of the United Kingdom and only obtained its independence in 1968 (Gould & Lamb, 2004:268). The country does not have a proper constitution with an enshrined Bill of rights and is a monarchy. Gould and Lamb report that the national parliament does not have real powers and all major decisions are made by the king, who is the supreme leader of the country.

Swaziland has not really experienced serious armed violence since its independence, until lately (Wesson, 1999:23). According to the *Swaziland News*, lawmakers in Swaziland were still banned from belonging to political parties and the country was still under emergency rule in 2011. Union leaders and journalists were detained, teargas and water cannons were used on them and they were hit with rubber bullets to break their pro-democracy march. The authorities' actions are justified by the 2005 Constitution that supersedes the 1968 democratic constitution, which was repealed and suspended on the 12th of April 1973 to give absolute power to the monarchy and banned organised political opposition. The Constitution underwent a number of manipulative processes, as the Swaziland opposition parties label it, and it was challenged unsuccessfully in the Swaziland High Court. It became the final Constitution in 2005, despite national and international calls from bodies such as Amnesty International and the International Bar Association (Politics of Swaziland, 2010).

Firearms in Swaziland are regulated by the Arms and Ammunition Act 24 of 1964. In 2003, there were 11 407 registered firearms owned by 8 711 registered firearm owners (Gould & Lamb, 2004:273). Alpers (2011) estimates that by 2011, the firearms figures have risen to 72 000. The accuracy of firearm data cannot be confirmed, due to the limited resources in Swaziland. Nkiwane *et al.* (1999:25) report that by 1999, just like in other developing countries, Swaziland had limited numbers of computers and used a

manual method of keeping record. Commonly possessed firearms include shotguns, revolvers, pistols and rifles, with shotguns as the firearm of choice.

The licensing system is based on a tribal system that involves tribal authority (Nkiwane *et al.*, 1999:25). The firearm application process, according to Gould and Lamb (2004: 272), includes among others, the applicant visiting his/her home area to be interviewed by the local chief's council for character and general reputation. If the chief's council is satisfied with the applicant, the chief and the applicant complete official forms that are submitted to the relevant police station commander. The applicant's fingerprints are taken and then the official process follows for comments and decision. The process includes the local station commander, the regional administrator, the Director of Crimes at Police Headquarters, the Licensing Officer/ Registrar of Firearms Registry, and the Licensing Board. Gould and Lamb further report that the Licensing Board only meets when there are 200 applications to be processed.

The final approval of an application, according to Gould and Lamb (2004:272), entitles the applicant to get a Permit to Purchase for which the applicant must pay an amount of US\$ 7, 57 to receive a Certificate of Registration. After the station commander has inspected the applicant's place of residence or business for a firearm-safe inspection, the applicant will be issued with a Possession Licence, also at the cost of US\$ 7, 57; which then entitles the applicant to purchase a firearm from a registered firearms dealer.

The Swaziland Arms and Ammunition Act of 1964 does not require applicants to acquire competency certificates; a practice regarded by many as a loophole that allows incompetent people to access firearms (Gould and Lamb, 2004:273). It is reported that there is generally a negative attitude towards the ownership of firearms by private citizens. Gould and Lamb report that there were eight registered firearm dealers in 2003.

3.3.4.4 Mozambique

Mozambique shares boundaries with South Africa, Swaziland, Zimbabwe, Zambia, Malawi and Tanzania. Just like most colonised African countries, Mozambique struggled for independence from Portugal from 1964 to 1974, which was followed by 14 years of civil war (Leão, 2004:9). The Mozambique civil war involved the Front for Liberation of Mozambique (FRELIMO) and the Mozambique National Resistance (RENAMO) between 1974 and the late 80s (Gould & Lamb (2004:95). It is estimated that during the civil war, FRELIMO and RENAMO distributed close to 1.5 million small arms to civilians, without proper records and licences and that affected the government's database negatively. Leão (2004:11) quotes a famous phrase from one researcher, Nyararai in his article "Mozambique: a power keg" where he said "...the authorities do not know who owns what arms, or how they get access to them. The government does not even know the quantity of arms used by the uniformed forces. If the government cannot control the movement and use of small arms within its jurisdiction, clearly it cannot control the illicit proliferation and misuse of small arms in the country".

Firearms in Mozambique are regulated by the Arms and Ammunition Act (AAA) Decree No 8/2007 (*Regulamento de Arma e Municoes*). Wesson (1999:17) indicates that firearms were only issued to whites and Portuguese before the independence of Mozambique. The Mozambique Firearms Act allows individuals to own semi-automatic pistols of less than 7,65mm calibre and a revolver of less than 9mm calibre (Gould & Lamb, 2004:98). Gould and Lamb state that there were no firearm dealers in Mozambique by 2004. They indicate that people interested in firearms are allowed to import a maximum of three firearms from other countries. The process involves prospective buyers travelling to a foreign country and buying a firearm and making a formal firearm application inland with the police.

The application process entails a formal application to the assistant commissioner who processes it and forwards it to the minister for confirmation (Wesson, 1999:17). Wesson says that the ministerial approval function may not be delegated. Other requirements

include proof on Mozambican citizenship, a proper motivation letter for the need, as well as a recommendation by the employer as proof of employment, since unemployed individuals do not qualify for firearm licences. Leão (2004:38) indicates that further requirements include a limit of 3 firearms per individual (one for self-defence and two for sporting/ hunting), two- year renewals, and handing in of firearms to the police whenever the licenced owner dies. Refused applications are announced via the mass media to discourage the community from acquiring firearms and approved ones are renewed every two years (Gould & Lamb, 2004:98). There is according to Wesson (1999:18), a limit of 100 bullets that an individual may purchase and the police have the power to enquire about ammunition usage at any time.

The continued illegal supply of weapons to RENAMO by the former South African Defence Force, as well as failure by the United Nation Operation in Mozambique (UNOMOZ) to disarm formerly warring parties in Mozambique after the peace agreement deal, is believed to be among the main causes behind large numbers of illegal weapons in Mozambique (Wesson, 1999:18).

Mozambique eventually signed the SADC protocol in August 2001 on the control of small arms and light weapons (Leão, 2004:9). Leão reports further that the Mozambique government created Coprecal (Committee for the prevention and control of small arms and light weapons) to oversee the implementation of the protocol. In 2003 Coprecal members participated in an ISS-organised workshop to assess the small arms control in Mozambique. One of the findings was that the arms control legislation was out-dated, and a working group in the Ministry of Justice was tasked to draft a proposal for a new firearm law that would be compatible with the SADC protocol (Gould & Lamb, 2004:109). Among the control measures built into the Mozambique Firearms Act was the control over security companies' firearms, where most firearms were lost. Changes made provision for all weapons used by private security guards to be controlled by the hiring company and that company is subjected to a monthly inspection of its stock piles by at least two police officials (Leão, 2004:41).

Disarmament initiatives, such as Operation Rachel, were launched in 1990 between South Africa and Mozambique, to identify and destroy arms caches, followed by the Tools for Arms (TAE) programme in 1995, which was collecting weapons in exchange for items such as building materials, agricultural implements, sewing machines and bicycles (Wesson, 1999:19 & Leão, 2004:20). TAE has, according to Gould and Lamb (2004:109), destroyed over 7 000 small arms and light weapons by 2004. News24 (2013) reports however, that Renamo launched fresh attacks on the Frelimo led government, killing seven people over dissatisfaction of the government failure to honour the 1992 peace accord.

3.3.4.5 Zimbabwe

Zimbabwe was a British colony until 1965 and it derives its firearm culture from the British background. Many white and coloured people in Zimbabwe, which was then known as Rhodesia, owned firearms for personal protection, hunting and sports shooting. The liberation struggle that followed the colonialism era led to the illegal influx and misplacement of firearms in Zimbabwe (Gould & Lamb, 2004:302). The latter statement reiterates what was said by Wesson (1999:28), when he indicated that a full scale liberation war in Zimbabwe was defused by the 1979 political settlement at Lancaster house. Zimbabwe shares borders with Mozambique, South Africa, Botswana and Zambia.

Firearms in Zimbabwe are regulated by the Firearms Act of 1957, which makes provision for the screening of applicants who are 16 years or older for mental health, temperament and also for the destruction of surplus and redundant firearms (Gould & Lamb, 2004:311). According to Nkiwane *et al.* (1999:8), Zimbabwe does not have an arms industry but rather produces small arms ammunition, as well as mortar supplies, primarily for military purposes and to a lesser extent, to the general public. Nkiwane *et al.* reports that the Zimbabwean Defence Industries (ZDI), which is a government owned company, was formed in 1984 to control legal military sales from Zimbabwe. The on-going political situation in Zimbabwe seems to make it difficult to get enough information on the country's legislation, due to the restriction on state information.

In Zimbabwe, firearms must be declared at all legal crossing points. According to Nkiwane *et al.* (1999:10), persons smuggling firearms across the Zimbabwean borders contravene the custom and exercise regulations and such firearms are confiscated and kept at the national armoury indefinitely. The challenge is to ensure sufficient security and control around the national armoury to guarantee that those firearms are not used to commit crime.

Zimbabwe did not have a central firearm registry by 1999. It does require individual firearm owners to have permits for their firearms, but there is no comprehensive system. The Zimbabwean Firearms Act is also criticised for being silent on the criminal records of firearm applicants (Wesson, 1999:29).

Firearms in Zimbabwe are produced by the Zimbabwe Defence Industries (ZDI) and the Zimbabwean police believe that most illegal firearms originate from Mozambique and are smuggled into their country (Wesson, 1999:29). Wesson also believes that the successful disarmament and integration of the liberation forces (ZANLA and ZIPRA) into the Special Forces assisted the country to rid itself of surplus firearms.

3.3.4.6 Namibia

Namibia shares boundaries with Angola, Zambia, Botswana and South Africa (Gould & Lamb, 2004:115). According to Wesson (1999:8), despite being colonised by Germany, Namibia also experienced colonisation under South Africa before attaining its independence in 1990. Wesson believes that due to the colonisation, Namibia's gun culture has similarities with that of South Africa. Firearms are primarily used for hunting and sports shooting. Namibian firearm legislation, just like that of South Africa, entitles ordinary people to acquire up to four firearms in line with their hunting pattern a high calibre rifle to hunt big game, a smaller calibre rifle to hunt small game, a shotgun for birds and a hand weapon for protection (Wesson, 1999:9).

Firearms in Namibia are regulated by the Arms and Ammunition Act of 1996, which has many similarities with South Africa's Arms and Ammunition Act, 75 of 1969. The Namibian firearm legislation still makes provision for the firearm owner to grant permission in writing for the spouse or any person above 18 years who is not disqualified to be in possession of his/her firearm for protection and/or hunting purposes for a determined period (Alpers, 2012). The Arms and Ammunition Act 7 of 1996 was enacted to exercise control over a confusing licensing system in Namibia, prior to independence. According to Wesson (1999:8), magistrates were responsible for the issuing of firearm licences in the 1950s, and later they were issued by South Africa until 1980, when the South West African police took over and finally the Namibian police in 1990. Wesson (1999:9) indicates that the Namibian Arms and Ammunition Act of 1996 requires that the firearm applicant must be 18 years or older to apply, must not have been declared unfit to possess a firearm by the Namibian Police Force, must not have committed a violent crime or an act relating to an inclination to violence, not dependent on drugs or alcohol and should be mentally fit and stable to make sound judgments. There is, according to Gould and Lamb (2004:99), no firearm licence renewal in Namibia.

The Namibian Arms and Ammunition Act of 1996 was deemed water-tight, until the Geneva-based institution, specialising in small arms surveys, made a finding in 2003 that the Act does not restrict firearms sufficiently. The institution indicated that failure to require applicants to undertake firearm competency tests and the failure to reconcile the old manual database with the firearm electronic database that was only created in 1998 (Gould & Lamb, 2004:128). It is believed that such failure makes it difficult to establish the involvement of legal firearms in crimes.

Almost all Southern African countries are signatories to the SADC protocol on the control of firearms and the United Nations Programme Action to prevent, combat and eradicate the illicit trade in small arms and light weapons. The flow of small arms constitutes a serious concern within the region. According to Nkiwane *et al.* (1999:10), the SADC stipulated in 1996 that all member states should have a central firearm

registry to manage the registration of all firearms in the region in an effort to improve the control over firearms. There are no proper records of total compliance with SADC policies, except for the destruction of firearms. It is also clear that most African countries do not have relevant policies in place to effectively regulate firearms.

South Africa emerged on top of the chart with 3 735 civilian firearm ownerships by 2003, followed by Zimbabwe at 400 000 and Namibia at 97 00. It is interesting to observe the gap between the top three African countries. Common challenges for firearm proliferation in African countries are losses, thefts and smuggling that fuel violent crimes. African countries who are signatories to the SADC protocol on control of firearms and the United Nations Programme Action committed themselves to prevent, combat and eradicate the illicit trade in small arms and light weapons. There are no proper records of total compliance, except for the destruction of firearms. Also legible was that most African countries don't have relevant policies in place to effectively regulate firearms.

Table 3.1 Regional approaches in firearm policing

A tabular view of firearm control in the SADC countries bordering South Africa						
Heading	Countries					
	Botswana	Lesotho	Swaziland	Mozambique	Zimbabwe	Namibia
Estimated Population	2,030,738 millions	2,193,843 Millions	1,067,773 Millions	23,929,708 Millions	12,754,378 Millions	2,324,004 Millions
Estimated no of privately owned guns	87,000	47,000	11,407	1,000,000	400,000	260,000
Requirements to own firearms	<ul style="list-style-type: none"> • Minimum age of 18 years; • Genuine reasons for possession; • Background checks for 	<ul style="list-style-type: none"> • Minimum age of 18 years; • Genuine reasons to possess; • Background checks for 	<ul style="list-style-type: none"> • Minimum age of 21 years; • Genuine reasons to possess; • Background checks 	<ul style="list-style-type: none"> • The act is silent on minimum age; • Genuine reasons to possess; • Background 	<ul style="list-style-type: none"> • Minimum age of 16 years; • Genuine reasons to possess; • Background 	<ul style="list-style-type: none"> • Minimum age of 18 years; • Genuine reasons to possess not necessary; • Background checks for

	<p>criminal, mental and employment records</p> <ul style="list-style-type: none"> • Understanding of theoretical and/or practical knowledge on firearms safety and law • 3 year renewal intervals <p>• Others:</p> <ul style="list-style-type: none"> -no limit on the firearms and ammunition possessed; -Firearm dealers may only sell maximum of three firearms (1 handgun, 1 rifle, 1 shotgun) to single gun owners every two years; -no third party 	<p>criminal, mental and employment records</p> <ul style="list-style-type: none"> • Understanding of theoretical and/or practical knowledge on firearms safety and law • 5 year renewal intervals <p>• Others:</p> <ul style="list-style-type: none"> -private possession of handguns is prohibited; 	<p>for criminal, mental and employment records</p> <ul style="list-style-type: none"> • No need for theoretical and/or practical knowledge on firearms safety and law • 3 year renewal intervals <p>• Others:</p> <ul style="list-style-type: none"> -maximum of three firearms per firearm owner, 25 rounds per purchase and maximum of 50 per year; -no third party or spousal character reference; 	<p>checks for criminal, mental and employment records</p> <ul style="list-style-type: none"> • Understanding of theoretical and/or practical knowledge on firearms safety and law • The act is also silent on renewal intervals <p>• Others:</p> <ul style="list-style-type: none"> -limited to 1 firearm per certificate and ammunition as permitted in the certificate; -no third party or spousal character reference; -history of family violence does not contribute to refusal or revoking of 	<p>checks for criminal, mental and employment records</p> <ul style="list-style-type: none"> • No need for theoretical and practical training in firearm; • 3 year renewal intervals for possession and 10 years for other purposes of Competency certificate <p>• Others:</p> <ul style="list-style-type: none"> -limit of between 1 and 4 firearms, 200 ammunition and 2400 primers; -no limit on the number of that Firearm dealers may sell; -positive third party character 	<p>criminal, mental and employment records;</p> <ul style="list-style-type: none"> • No need for theoretical and practical training in firearm; • Licence valid till ownership change, licence cease to be valid or forfeited to the state; • Others - No limit on firearm and ammunition; - No third party or spousal character reference; - History of family violence or domestic violence does not contribute
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	character reference -history of family violence does not contribute to refusal or revoking of firearm licence		-history of family violence contributes to refusal or revoking of firearm licence; - No need for competency certificate.	firearm licence.	reference (including spouse) -history of family violence does contribute to refusal or revoking of firearm licence - must not be a danger to society;	to refusal of firearm licence; - Safe storage safe is a requirement.
Manner of firearm disposal	<ul style="list-style-type: none"> • Surplus, collected and seized firearms are destroyed in all SADC countries 					
Firearms transgressions	<ul style="list-style-type: none"> • P250 fine for Illicit possession • P1 000 fine or 1 year imprisonment for Illegal importation • 2 year imprisonment for failure to register a firearm • 5-10 years for offences with a firearm • P3000 or 3 year imprisonment for illegal manufacturing • P2000 or 2 	<ul style="list-style-type: none"> • 8 year prison term and a fine for Illicit possession • <i>Private guns are prohibited from sports arenas, churches, government buildings and schools.</i> • Plain view as well as concealed carriage is prohibited with some few exceptions. 	<ul style="list-style-type: none"> • 1-3 year prison term and a fine for Illicit possession • Private guns are prohibited from sports arenas, churches, government buildings and schools. • Plain view as well as concealed carriage is 	<ul style="list-style-type: none"> • 1-3 year prison term and a fine for Illicit possession • Private guns are prohibited from sports arenas, churches, government buildings and schools. • Plain view as well as concealed carriage is allowed. 	<ul style="list-style-type: none"> • Up to 1 year prison term and a fine for Illicit possession; • 5 years imprisonment for illicit manufacturing of firearms; • 2 years for illicit dealing in firearms; • 2 years for negligence, reckless handling; • 2 years for pointing of firearm; • 2 years imprisonment 	<ul style="list-style-type: none"> • 1 year prison term and a fine for Illicit possession; • 5 years imprisonment for illicit manufacturing of firearms; • 3 years for illicit dealing in firearms; • 1 year for negligence, reckless handling; • 1 year for pointing of firearm; • 1 year

	years for illegal dealing with firearms <ul style="list-style-type: none"> • P500 or 6 months' imprisonment for failure to report lost/ stolen firearm 		allowed.		nt for handling firearm under the influence of substance; <ul style="list-style-type: none"> • 1 year for failure to report lost or stolen firearm; 	imprisonment for handling firearm under the influence of substance; <ul style="list-style-type: none"> • Up to 1 year for failure to report lost or stolen firearm;
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The above table indicates the firearm licensing requirements in the SADC region, the safe storage of firearms, disposal of excess, redundant and obsolete firearms, as well as the manner in which they are dealing with firearm legislation transgressions.

3.3.5. Firearms control in the BRICS countries

BRIC came into existence in 2001 and quickly grew to become one of the main economic players globally. Currently known as BRICS, this body consists of a group of five developing countries, comprising of Brazil, Russia, India, China and South Africa. The grouping is characterised by their demographic and economic potential to rank among the world’s largest and most influential economies in the 21st century (Issafrica.org, 2011).

South Africa, which joined BRICS late in 2010, has the smallest population of 50 million people (2009), with China leading the group with 1.34 billion people and Russia second with 143 million people. Despite similar geographic and economic potential among BRICS countries, their internal politics and economies are dissimilar. According to Armijo (2007:8), Brazil and India have well institutionalized democracies, Russia is a declared democracy moving towards authoritarianism, while China is a Marxist people’s republic. South Africa is known for its young democracy. According to issafrica.org

(2011), South Africa's geostrategic port location and resources would allow the BRIC countries essential shipping routes from West to East, which would benefit countries such as India, China, Japan and Russia.

3.3.5.1 Brazil

Brazil is the largest country in South America with a population of over 192 million people. The Federal Constitution, which was in force since 5 October 1988, is the supreme law of the country. Brazilian law is largely derived from Portuguese law, which was its coloniser from 1500 to 1815, as well as the Roman-Germanic legal tradition (<http://www.policyalmanac.org/crime/archives/crsguncontrol>). Brazil and South Africa are two emerging economies that share many similarities like high crime rates, claims of high-level corruption in government and massive social inequalities (Brown, 2013). On the other hand, Murray, Cerqueira and Kahn (2013) report that the disarmament legislation has helped reduce Brazil's homicide rates lately. They indicate that despite its high rate of lethal violence, Brazil appears to have similar levels of general criminal victimization as several other American countries.

Firearms in Brazil are regulated by the Statute of Disarmament Law no 10,826/2003. All firearms in that country are required to be registered with the state. The legal requirements for registration include a minimum age of 25 years; payment of firearm tax to the value of R\$60; submission of the application to the Federal Police in person or via the internet (Gun Politics in Brazil ... 2012). According to Alpers (2011), it is estimated that there is a total of between 14 800 000 and 17 600 000 guns in civilian hands in Brazil and it ranks number 8 within the top 178 countries with most firearms. Gun Politics in Brazil (2012) estimates the figure at 17 million firearms in 2008, of which 9 million were unregistered. Brazil is reported to have the second largest arms industry in the Southern Hemisphere.

Sources of illegal guns are, among others, firearms exported to neighbouring countries by Brazil, which are then smuggled back into the country, as well as through theft and corrupt police and military officials. The manufacturing of small arms, ammunition and/

or their components is permitted only to permit holders. According to the World Health Organisation (WHO), Brazil is rated among the highest homicide countries in the world (De Sousa, Macinko, Pereira, Malta & Neto, 2007:2). Murray et al. (2013) believe the level of criminal victimization in Brazil is comparable to that of Latin American and Northern American countries.

Brazil's firearm regulation is of restrictive nature, whereby the person seeking to buy a firearm must provide the licensing authority with evidence of good character and valid reasons for the firearm need (Alpers, 2013). The right to private gun ownership is not guaranteed and no civilian is allowed to possess an automatic firearm and/or imitation firearm. Semi-automatic assault weapons and handguns (pistols and revolvers) are permitted under a licence (Alpers, 2013).

Requirements to possess a firearm, include among others, the following: Valid reasons to the satisfaction of the National Arm Registry for the firearm need; applicant must be 25 years old or above; favourable background check that considers criminal, mental and employment records; understanding of the firearm safety and the law, which includes passing a test on a theoretical and/or practical training course (Alpers).

It is, according to Alpers (2011), not a requirement for a third party character reference, consideration of family violence history and the renewal interval is three years. They report further that there is no limit to the number of firearms and ammunition that can be possessed. However, there is a limit on the type and number of firearms that may be sold by a licenced firearm dealer. A licenced firearm dealer may sell a maximum of three firearms to one person, of which one may be a handgun, a rifle and/ or a shotgun. Those entitled to buy those firearms are mostly retired military officials and non-commissioned officers.

Regarding record keeping, Alpers (2011) reports that an official register is kept for all acquisitions, possession and transfers of each privately held firearm. Licenced firearm dealers keep own records of each firearm and/or ammunition purchase, sale or transfer

on behalf of the regulating authority. State agencies must maintain records of storage and movement of all firearms and ammunition under their control.

Carriage of firearms in Brazil may be in plain view of the public or hidden (Alpers). Private guns are prohibited in sports arenas, churches, government buildings and schools. The maximum penalty for illicit possession of firearms is between 1 and 3 year prison sentence and a fine. Surrendered, confiscated and seized firearms are disposed of through destruction.

3.3.5.2 Russia

In 2011, Russia has been reported to have close to 5 million firearms in civilian hands, which made it the 9th country with the most firearms, when compared to 178 surrounding countries (Alpers). Firearms in Russia are regulated by the Federal Weapons Act of 1996. According to Alpers (2011), there were 226 000 rifles and 3, 410 000 shotguns in civilian possession in 2011. Civilians in Russia are not allowed to possess automatic firearms and handguns. According to Roman (1999:1), only weak gas handguns that use tear gas canisters, that are mostly used for drunk or half-drunk mischievous people are allowed. He reports that real handguns are given in exceptional instances to retired high- rank officers as rewards, usually with rich engraving bearing the officer's name. Roman reports further that tear gas, pepper spray, as well as air guns below 7, 5 joules are legal without any licences. Air guns above 4,5mm are prohibited outside sport buildings or shooting ranges.

The requirements for owning a firearm in Russia include, among others, genuine reasons for the firearm need for, example hunting, target shooting, personal protection or security; the minimum age limit is 18 years; the applicant needs to get positive feedback on background checks which consider criminal, mental and medical records; understanding of firearm safety and the law tested in a theoretical and/ or practical training course. Roman (1999:3) adds an additional requirement of a permanent home address for the applicant. A renewal process through re-application, in which one needs to fulfil all the above requirements to qualify, is conducted every five years (Alpers).

Roman (1999:3) indicates that the process of registering firearms includes test firing of each firearm at a soft target, after which a sample bullet and cartridge are taken and registered against the applicant's name.

In compliance with firearm legislation regarding firearm registration, records need to be kept of all acquisitions, possession and transfers of each privately held firearm in an official register; firearm manufacturers must keep record of each firearm produced for inspection by the regulating authority; state agencies are required to maintain records of the storage and movement of all firearms under their control. With regard to storage and transportation, all firearms must be stored unloaded with ammunition stored separately, no firearm must be carried in plain view of the public except for private security guards, hunters, and sport shooters. The penalty provision for illegal possession of a firearm is 8 years. The Russian Federation has adopted a two-tier system of licensing, whereby a person is required to obtain a permit to acquire a firearm prior to being granted a licence to possess or keep the firearm (Alpers 2011). The permit is valid for 6 months whilst the validity of a licence remains 5 years.

The types of firearms in illegal possession vary in the different regions of Russia. According to Wikipedia.org (2011), unregistered hunting rifles are primarily found in Siberia, illegally held military weapons in Chechnya, whilst small arms are in the areas of Tula and Izhevsk. Wikipedia indicates further that Russian troops play an important role in arms trafficking, especially in war zones. It is believed that poor salaries, coupled with a lack of control over weapon storage, contribute to the illegal trade. In an effort to combat arms trafficking, the Russian Government undertook programmes which involved special prosecutors assigned to deal with the security of the defence plants and curbing thefts from the plants, as well as strict security systems for the country's small arms manufacturers. Wikipedia.org (2011) supports Roman (1999) in that the government intervention in Russia led to decline in firearm trafficking.

3.3.5.3 India

Firearms in India are regulated by the Arms Act of 1959 which falls under the Minister of Home Affairs, Internal Security Division II and is enforced by the state, territory, metropolitan and special task police force, as well as all Indian Police Service (Alpers 2011). It is estimated that India has a total of 40 000 000 firearms in civilian hands and rank number 2 when compared to 178 countries in 2008 (Alpers 2011). In 2008 alone, death as a result of firearms totalled 6 219, whilst in 2007 it stood at 7 603. Suicide with firearms between 2007 and 2008 was 1 639 and 2 046 respectively. Herewith a short tabular view on the decline rate of firearm usage in India:

Table 3.2: Decline in victims of firearm murder in India: Period 1999 to 2008

Period	Total victims	By licenced firearm	By unlicensed firearm	Total firearms victims
1999	38,272	772	8,522	9,294
2007	36,041	691	6912	7,603
2008	35,880	678	5541	6,219

Source: Adapted from Goyal, 2004:59

The firearm-related incidences show a steep decline when comparing figures from 1999 to 2008 in India. By implication, the enforcement of the Indian Arms Act of 1959 Act seems to be effective.

In India, only licenced manufactures are allowed to manufacture small arms, ammunition and/ or their components. Arms brokers and transfer intermediaries are not specifically regulated by law. The Constitution of India does not provide for the right to private gun ownership. Civilians are not allowed to possess automatic firearms. Semi-automatic assault weapons, handguns for target shooting and protection are permitted under a licence (Alpers 2011).

Requirements for firearm ownership include specific reasons for such a need, for

example, target shooting, personal protection, security, pest control or hunting; the minimum age restriction is 21 years; the applicant goes through a background check which considers criminal, mental and domestic violence records. No third party, spouse or relative character reference or interviews are done during the firearm application process. In case of any offence involving violence, a gun licence is denied or revoked. It is also not a requirement for theoretical knowledge of the Firearms Act or practical skills on firearm handling. Firearm owners are obliged to re-apply and re-qualify for their firearm licence every three years (Alpers 2011).

Licensing records of firearms are kept by authorities and civilians are allowed to possess a maximum of three firearms and 25 rounds of ammunition per purchase, with a maximum limit of 50 per annum. Records of firearm registrations should be kept by firearms dealers in case of purchase, sale or transfer; manufacturers for each firearm produced; state agencies to maintain records of storage and movement for all firearms in their possession. No buyer can take possession of a firearm from a dealer without passing mandatory official background checks. Gun shows and temporary firearm dealing events are not regulated by law.

Firearm owners with permits may carry their firearms in full view of the public or hidden according to their preferences. Storage and transportation of guns and ammunition by firearm owners and state entities are regulated by firearm legislation. There are, however, no specifications for safe storage of firearms by licenced arms dealers. A voluntary firearm surrendering scheme to reduce illicit firearms in circulation are conducted regularly and those firearms, together with surpluses, confiscated/ seized firearms are disposed of through destruction. Those who fail to comply with the firearm legislation by means of either of the above processes, face criminal prosecution with a maximum penalty of three years for illicit possession (Alpers 2011).

Based on the above deliberations, it can be deduced that well-crafted firearm legislation, coupled with effective law enforcement, can make an impact on firearm-related crimes, as it happened in India within a period of 10 years.

3.3.5.4 China

China has an estimated pool of 40 000 000 firearms in civilian hands and is ranked number 3 in comparison to other 178 countries (Alpers 2011). Only licenced manufacturers are permitted to manufacture firearms. A manufacturer's licence is valid for a period of three years.

The Law of the People's Republic of China has its roots from the common law inherited as a former British colony as well as Portuguese and German civil law (Wikipedia.org: 2011). Firearms are controlled by the Law of the People's Republic of the China Control of Firearms, 1996. The right to a private firearm is not guaranteed in China and no civilian is allowed to carry a firearm for protection. Automatic weapons and semi-automatic assault weapons are prohibited, whilst handguns are permitted for hunting with permission only. The requirements to own a firearm include providing genuine reasons to possess a firearm, for example for hunting, sports shooting, animal control; applicants must pass background checks which consider criminal, mental and domestic violence records; no past history of family violence; understanding of firearms safety and the law both in theoretical and/or practical training course. No third party character references are required.

The People's Republic of China uses a permissive system in dealing with firearm applications. Unlike the restrictive approach, that requires the applicant to convince the state why they should be issued with a firearm licence, the permissive approach requires the licensing authority to show reasons for denying the request. Restrictive systems are normally applied in an attempt to reduce firearm violence by reducing the number of firearms in circulation.

The Public Security spokesman of the People's Republic of China, Mr Wu indicated in his address at a US University that China would maintain strict control on firearms; a system which has helped China to avoid a US-style gun culture (Zhe: 2007:1). Mr Wu indicated further that even if private citizens are prohibited from owning firearms,

between June 2005 and September 2006, the police confiscated about 178 000 illegal guns and 4.75 million bullets. He reiterated that even if gun crime is rare, the firearm ban aims to wipe out potential danger and protect the safety of every individual citizen. The deputy director of the Ministry's Public Security Bureau indicated that each gun sale generates a profit of up to 3,000 Yuan (\$375), which is a huge temptation for farmers who merely make up to 1000 Yuan (\$125) a year, to engage in illegal gun trade.

Records that need to be kept include civilian gun registrations where acquisitions, possession and transfer of each privately held firearm should be kept in an official register; dealers keeping records of each firearm and/or ammunition on behalf of the regulating authority; state agencies also maintaining records of the storage and movement of all firearms and ammunition under their control (Alpers 2011).

Regarding sales and transfers, no private sale or transfers of firearms is permitted. Only firearm dealers with valid gun dealers' licences are permitted to sell firearms, in line with the special permit issued by the public security organs to the gun owner. The Firearms Act regulates firearms storage and transportation thereof for private firearms and ammunition of gun owners, state entities as well as in-transit. No written storage specifications for the licenced firearm dealers are given.

Firearms may be carried openly in full view in public or concealed. There are no restrictions to that. The illegal possession of a firearm is punishable with a maximum prison sentence of 2 years (Alpers 2011). They report that surplus, collected and seized firearms are disposed of through destruction.

3.3.5.5 South Africa

In South Africa gun ownership goes back in years to the era of colonialism when Africans and Europeans came into contact. Guns were then used as tools for hunting and fighting (Storey, 2008:1). According to Storey (2008:27), Jan Van Riebeeck

established a trading post in Cape Town in 1652 and introduced regulations to control the trade of firearms to ensure that arms were kept out of the hands of the Khoi people. Storey explains that Jan Van Riebeeck felt that his people will not be safe if the Khoi got firearms and he declared it a capital offence for selling, giving or lending any native a firearm, ammunition or any weapon.

It is estimated that there is a total number of 5,950,000 firearms in civilian hands, which places South Africa at position 17 in the top 178 countries with most firearms in civilian hands (Alpers 2011). The guiding policy regulating firearms in South Africa is the Firearms Control Act 60/2000 and the Firearms Regulations, 2004. Guns in South Africa are regulated in a restrictive manner by the National Commissioner of the police, who is the registrar. The right to private gun ownership is not guaranteed by law in South Africa. Civilians are not allowed to possess automatic firearms, specifically modified and semi-automatic firearms without special endorsement (Alpers 2011).

Requirements for firearm licensing, according to Alpers (2011) includes the following: the applicant must have a valid competency certificate; furnish genuine reasons to possess a firearm e.g. hunting, target shooting, collection, personal protection or for security purposes; be 21 years or above with some exceptions which may include the fact that the applicant conducts a business and needs that firearm for that purpose; applicant is gainfully employed, is a dedicated hunter/ sports person or private collector; positive background check which considers criminal, mental, medical, domestic violence, addiction and previous firearm licence records; third party character reference for each gun licence which includes the spouse or close family member; no history of family violence; an understanding of firearm safety and the law; tested in a theoretical and/ or practical training course for a firearm licence. Dissatisfied firearm applicants whose applications were refused may approach the appeal board that resorts under the Minister of Police. The Firearms Appeal Board has the mandate to overturn the decision of the registry.

Other administrative information of importance includes a 5 year renewal interval for protection firearms and 10 years for other categories; a limit of 1 protection firearm per person, maximum of four for occasional/ sporting purposes with a further limit of 400 cartridges and up to 2400 primers per firearm (Alpers 2011).

Record keeping for acquisition, possession and transfer of each privately held firearm are kept by the Registrar, whilst licenced firearm dealers are required to keep record of each firearm or ammunition purchase, sale or transfer on behalf of the regulatory authority. Firearm manufacturers are required to keep record of each firearm produced for inspection by authority. State agencies maintain records of the storage and movement of all firearms and ammunition under their control.

There are specific firearm regulations that regulate the storage of firearms by private licenced gun owners, firearm dealers, state entities, and in-transit firearms, as well as ammunitions (Alpers, 2011). The document indicates further that carriage of firearms may be in plain view of the public or concealed. There is no need for a carriage permit. Private guns are prohibited in educational institutions, churches, community centres, health facilities, taverns, banks, corporate buildings, government buildings and some public places such as sport stadiums. The penalty for illicit possession is up to 15 years imprisonment. Surplus, collected and seized firearms are disposed through destruction to avoid their return to secondary market (Alpers 2011).

The starting point of rooting out firearm- related crime is the identification of sources of illegal firearms in the country and gaining control over them (Gamba, 2000:25). Gamba indicates in the report, which is supported by Tracey (2012:11) that crime trends and police data indicate that illicit markets are fuelled by theft or loss of state controlled firearms, theft or loss of firearms owned by defence force and police members, firearms lost by/or stolen from civilians, and firearms smuggled into the country. They believe that loss and theft of licenced civilian and private security company small arms, as well as government held weapons also contribute to the illicit arms pool.

In the USA, firearm dealers are obliged to keep record of all acquisitions and dispositions of firearms, report all multiple sales of pistols and revolvers to Federal Police and keep record of all thefts or loss of firearms and report same to the police (Johnson *et al.*, 2012:480). Squires (2000:65) refers to Cook's famous quote where he said "If robbers could be deprived of guns, murder rate would fall, the robbery-injury rate would rise and robberies would be redistributed to some extent from less to more vulnerable targets. The assaultive murder rate would decline, with the greatest reductions involving the smallest vulnerable types of victims. The overall assault rate might well increase". According to Gun Free South Africa (2013), there is evidence that shows, both in South Africa and globally, that strengthening national firearm control can and does reduce the incidence and rates of firearm homicides. They indicated that the 2011/2012 annual SAPS report reflected a decrease in murder rate to the lowest rate of 30.9/100,000 and the police acknowledged that the steady decrease in murders was primarily due to a significant decrease in gun-related deaths. The statement was supported by the mortuary data which show that in 2009 a total of 6,428 people were shot and killed, compared to a high of 12,298 gun casualties in 1998. Tracey (2013:3) believes that other contributing factors could be increased police visibility, crime prevention operations and the implementation of the Firearms Control Act 60 of 2000. She substantiates her statement by quoting the SAPS 2012/2013 annual report on firearms confiscation that reflects that 21 268 firearms were confiscated in 2009/10, 19 327 firearms in 2010/11 and 25 615 firearms in 2012/13.

According to the World Health Organisation 2002, over 2 million of people worldwide lose their lives to violence annually. Among recommendations made were multi-sectoral and collaborative approaches that involve measures to reduce firearm injuries and improve firearm-related safety as well as the promotion and monitoring of adherence to international treaties, laws, and other mechanisms to protect human rights. The table that follows provides a summary of firearm control in the BRICS countries:

Table 3.3: BRICS approaches in firearm policing

A tabular view of firearms control in the BRICS countries					
Heading	Countries				
	Brazil	Russia	India	China	South Africa
Estimated population	189 million	143 million	1,120 million	1,34 billion	50 million
Estimated nr of privately owned guns	14,800,000 to 17 600 000	12,750,000	40,000,000	40,000,000	5,950,000
Requirements to own firearms	<ul style="list-style-type: none"> • Minimum age of 25 years; • Genuine reasons for possession; • Background checks for criminal, mental and employment records • Understanding of theoretical and/or practical knowledge on firearms safety and law • 3 years renewal intervals • Others: 	<ul style="list-style-type: none"> • Minimum age of 18 years; • Genuine reason to possess; • Background checks for criminal, mental and employment records • Understanding of theoretical and/or practical knowledge on firearms safety and law • 5 years renewal intervals • Others: 	<ul style="list-style-type: none"> • Minimum age of 21 years; • Genuine reason to possess; • Background checks for criminal, mental and employment records • No need for theoretical and/or practical knowledge on firearms safety and law • 3 years renewal intervals • Others: 	<ul style="list-style-type: none"> • The act is silence on Minimum age; • Genuine reason to possess; • Background checks for criminal, mental and employment records • Understanding of theoretical and/or practical knowledge on firearms safety and law • The act is also silent on renewal intervals • Others: 	<ul style="list-style-type: none"> • Minimum age of 21 years; • Genuine reasons for possession; • Background checks for criminal, mental and employment records • Understanding of theoretical and/or practical knowledge on firearms safety and law • 5 years renewal intervals for possession and 10 years for other purposes • Competency certificate

	-no limit on the firearms and ammunition possessed; -Firearm dealers may only sell maximum of three firearms (1 handgun, 1 rifle, 1 shotgun) to single gun owners every two years; -no third party character reference -history of family violence does not contribute to refusal or revoking of firearm licence	-private possession of handguns is prohibited;	-maximum of three firearms per firearm owner, 25 rounds per purchase and maximum of 50 per year; -no third party or spousal character reference; -history of family violence contributes to refusal or revoking of firearm licence.	-private possession of handguns is limited to sports, hunting and scientific research; -no third party or spousal character reference; -history of family violence contributes to refusal or revoking of firearm licence.	•Others: -limit of between 1 and 4 firearms, 200 ammunition and 2400 primers; -no limit on the number of that Firearm dealers may sell; -positive third party character reference (including spouse) -history of family violence does contribute to refusal or revoking of firearm licence
Manner of firearm disposal	<ul style="list-style-type: none"> • Surpluses, collected and seized firearms are destroyed in all BRICS countries 				
Firearms transgressions	<ul style="list-style-type: none"> • 1-3 years prison term and a fine for Illicit possession • Private guns are prohibited from sports arena, churches, 	<ul style="list-style-type: none"> • 8 years prison term and a fine for Illicit possession • Private guns are prohibited from sports arena, 	<ul style="list-style-type: none"> • 1-3 years prison term and a fine for Illicit possession • Private guns are prohibited from sports arena, 	<ul style="list-style-type: none"> • 1-3 years prison term and a fine for Illicit possession • Private guns are prohibited from sports arena, churches, 	<ul style="list-style-type: none"> • 1-3 years prison term and a fine for Illicit possession • Private guns are prohibited from sports arena, churches,

	government buildings and schools.	churches, government buildings and schools.	churches, government buildings and schools.	government buildings and schools.	government buildings and schools.
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The above table indicates the policing of firearm from licensing, policing thereof and manner of disposal in the BRICS region. It also indicates how each country deals with non-compliance with firearm legislation. From the above table it is evident that the BRICS countries all believe in a restrictive firearm enforcement system.

The firearm policing approach reflects a widely shared belief that members of certain social categories pose an unacceptable high risk of misusing firearms. As in the case of denying a driver’s licence to people who are legally blind, there is a strong consensus that if blind people possess firearms, they are capable of injuring or killing themselves or others (Jacobs & Potter 1996:93). Although BRICS countries differ in age restriction for firearm ownership, they all believe in proper background checks for prospective firearm applicants. Amnesty International (2005:14) also believes that background checks can reduce gun violence incidences, if conducted effectively. They highlight the fact that most countries do consider serious criminal convictions when considering a firearm licence. Amnesty International is however, disappointed in countries that do not regard domestic violence as a serious crime. With the exception of India, BRICS countries require the applicant to have both theoretical and practical knowledge of the Firearms Act and the safe handling of firearms.

The number of firearms that can be possessed is limited, either from the sale (dealer) point, as in the case of Brazil, or the purchase (user) point of view. All BRICS countries keep record of individual owners of firearms, whilst dealers, manufacturers and state agencies keep their own records on behalf of the regulating authority. Surplus firearms are disposed of through destruction in line with the AU policy on control of small arms

and management on proliferation of firearms.

3.4. LEGISLATIVE FRAMEWORK ON HOW FIREARMS SHOULD BE POLICED

The purpose of firearm legislation in general is not whether gun control is good or bad, whether the law is fair or unfair to gun owners, or whether it will be effective or ineffective in reducing the harm caused by the misuse of firearms, but to effectively control and manage them (Brunet & Goode, 2006:18). Brunet and Goode indicate that the Firearms Act is inter-twined with criminal law and it is aimed at enhancing public safety by controlling access to firearms through prohibition and penalties. They also believe that the primary purpose of the Firearm Act is to deter misuse of firearms and to control those given lawful access to firearms and access to certain kinds of weapons.

There were approximately 2, 9 million firearms in South Africa in 2011, registered to 1, 5 million private individuals (Kirn, 2013 :). In an effort to address the proliferation of firearms, the South African government undertook to reduce the number of illegal small arms in circulation nationally and to reduce the number of illegal weapons flowing into South Africa (Reyneke, 2000:110). Reyneke reports further that South African government also established a National Conventional Arms Control Committee at cabinet level to consider all arms export applications on a state-to-state basis and to prohibit the supply to states involved in conflicts or governed by military dictators. Illegal weapons are those firearms that are either imported illegally from outside the country's borders or stolen, or previously licenced weapons (Mills, 1994:2). Mills states that other sources of illegal weapons are the South African Police and the private security sector. He highlights the era of special constables who were hired without proper screening and were famous for selling their semi-automatic rifles, shotguns and handguns to the highest bidder. Mills reports further that private security firms with armed guards' contracts sometimes hired unregistered security officials who were not subjected to the Security Officers' Board Act of 1987 that compelled them to undergo a mandatory firearm training course.

The South African Firearms Control Act (FCA) 60/2000, which replaced the Arms and Ammunition Act 75/1969, was enacted to introduce a more vigorous firearm control process and procedure in South Africa, as well as to provide specific policing actions aimed at reducing firearm crime and violent crime (Tracey, 2011:1). The purpose of the FCA is to safeguard the constitutional rights to life and bodily integrity; prevent the proliferation of illegally possessed firearms and by providing for the removal of those firearms from society and by improving control over legally possessed firearms; to prevent crime involving the use of firearms; establishing a comprehensive and effective system on control and management; and ensuring the efficient monitoring and enforcement of legislation pertaining to the control of firearms (Goliath, 2004:20).

In addition to the sections dealing specifically with firearm transgressions like illegal possession thereof, the FCA makes provision for the presumption for possession, failure to report lost, stolen or destroyed firearms and negligent loss of firearms among others (Goliath, 2004:22). Tracey (2011:2) agrees with Goliath on the effectiveness of the FCA. He is convinced that despite numerous amendments and much criticism by various interest groups on the FCA, it can be factually argued that the FCA contributed immensely to the reduction of violent crime in South Africa. Kirn (2013:2) indicates that since the inception of the FCA, South Africa has seen a marked decrease in the number of firearm-related deaths. Information gathered from the National Injury Mortality Surveillance System (NIMSS) indicates that in 2002, 29% of non-natural deaths were caused by firearms, 14, and 5% were stab wounds and 11, 5% were pedestrians killed in road accidents. The following table gives a summary of causes of domestic deaths for the period 1999 to 2009:

Table 3.4 : Intimate femicide: manner of death

	Gun shot	Stabbing	Blunt object
Intimate 1999	30,6%	33,2%	33,2%
Intimate 2009	17,4%	31,4%	29,5%
Non-intimate 1999	33,6%	34,3%	21,2%
Non-intimate 2009	17,1%	35,5%	22,4%

Adapted from: 2011 National Injury Surveillance System

The above table reflects a reduction both in intimate and non-intimate firearm-related deaths in the 10 year reporting period. Based on that and the above deliberations, the reduction can possibly be attributed to the FCA, which was proclaimed in 2000 and became operational in 2004, a period which falls within the NIMSS reporting period.

It is still a challenge for authorities to improve control over illegal firearms due to the huge number of legal firearms which enters the illegal pool through loss and thefts. The report released by SAPS in 2009 confirms this concern (Gould & Lamb, 2004:133). The SAPS report indicated that "the illegal importation and smuggling of firearms into South Africa, as well as the theft and robbery of firearms in legal possession, and legal firearms reported lost, are certainly the most important factors contributing to the apparent general availability of illegal firearms in South Africa. The availability and alarming rise in the theft of firearms and those reported lost, exacerbate the incidents of violent crime" (Gould & Lamb, 2004:134). Nkiwane *et al.* (1999:5) indicate that it is a cliché to argue that firearm proliferation problems through loss/ theft belong to individual countries in Africa. They believe it is a regional problem and are of the view that a regional approach to the problem of small arms flow should become the starting point in an effort towards common regional sustainable security.

Gamba (2000:16) indicates that the number of firearms lost or stolen from private possession is often underreported due to penalties attached to the negligent loss of a weapon. Ammunitions that go with those firearms are far less if ever accounted for.

Dube (2012) emphasises the importance of effective control over ammunition using “a printer and cartridge approach”. He explains that a photocopier can be used for ten years as long as it is serviced at regular intervals. In the ten years, the same photocopier uses hundreds of cartridges. In the same way, one firearm uses hundreds of ammunition in its lifespan and as such ammunition should be equally regulated and controlled.

3.5 CONCLUSION

In this chapter, focus was on policing approaches from the international arena, continentally and in South Africa. The chapter started off by giving an overview of firearm policing challenges generally experienced and continued to benchmark practices and regulations in developing BRICS countries of which South Africa is a member, and the SADC countries which share borders and policing challenges with South Africa against those of developed European countries. Best practices in participating countries were benchmarked with the intention of developing a firearm policing model for South Africa.

CHAPTER 4

RESEARCH METHODOLOGY

4.1. INTRODUCTION:

The methodology section is regarded as the most concrete and specific part of research study (Creswell, 2009:145). Research methodology refers to the procedures undertaken by the researcher during the investigation to solve a problem or answer the research question (Brink *et al.*, 2006:191). To obtain the required empirical evidence needed to either confirm or negate what has been discovered during extensive literature research on the subject, interviews were used. It needs to be mentioned that the quality of research findings is directly dependent on the methodological procedure followed in the study. This chapter seeks to outline the methodology used to conduct this research. The chapter indicates that the research is of a qualitative nature. The chapter further discusses the merits and demerits of the collection methods and how it was developed and piloted. It also describes procedures followed during data collection and how data were analysed. Aspects of ethical considerations are explained later in the chapter and the limitation of the study concludes the chapter.

4.2 PURPOSE OF THE STUDY:

The purpose of this study was to analyse the policing of firearms in South Africa and develop a Firearm Policing Model to overcome challenges that emanate from the proliferation of firearms and to enhance effective administration in the firearm environment.

4.3 OBJECTIVES OF THE STUDY

The objectives of the study were to:

- explore and describe the policing of firearms in South Africa;
- identify and describe tools available for effective firearm policing;
- benchmark South African Firearm policing against international standards;
- develop a model to overcome the challenges emanating from firearm proliferation.

4.4. RESEARCH DESIGN:

The term research design means a plan that describes how the research will be undertaken (Burns & Grove, 2003:42). Trafford and Leshem (2008:89), supported by Creswell *et al.* (2009:3), believe that research design entails plans and procedures which serve as a blueprint to be followed in the research to bring broad assumptions to a detailed specific method of data collection and analysis. The research design in a qualitative context describes the nature of this study and the entire process from conceptualizing a problem to writing a narrative, including the unit of analysis. It outlines the plan, structure and strategies adopted for the research. Qualitative methodology is highly effective for research in which subjects are studied in detail, offering a comprehensive perspective as to why and how certain things happen in a particular way.

In this study, the phenomenon of interest was the policing of firearms in the Pretoria area. The challenges and needs of police officials in effectively policing firearms were explored and described. There is no formal research on the topic and it was therefore necessary to do an in- depth study to get to the bottom of this challenge and design an effective policing model. The designated firearm officials (DFOs) are primarily responsible for the administration of the firearms and the researcher sought to understand how they experience, identify and describe the challenges they encounter in their primary firearm policing function. The other reason is that the qualitative methodological approach allows for the study of the correlation between variables, in line with the research aim, hence triangulation was used.

Various scholars (Denzin, 1989; Leedy & Omrod, 2006) describe triangulation as the use of several data sources, or stated differently, multiple-methods, in search of common themes to support the validity and reliability of research findings. It also enables the researcher to corroborate, elaborate and illuminate the research question so as to have a deeper and clearer understanding of an issue and its context. Further to

the DFOs, some firearm experts from the professional hunting fraternity, as well as seasoned firearm researchers were also engaged to validate the strategy.

4.4.1 Qualitative research

Qualitative research refers to research which produces descriptive data, using literature studies and interviews (people's own written or spoken words) (Bryman & Burgess, 1999:29). It entails exploring and understanding the problem, using what individuals or groups ascribe to it. It also involves engaging people through interviews or questionnaires or exploring the situation and making an interpretation and attaching meaning to it (Creswell, 2009:4). Qualitative research takes an interpretive and naturalistic approach to its subject matter.

De Vos *et al* (2002:79) states that qualitative research is a method that elicits participants' accounts of meaning, experience and/ or perceptions, whilst Burns and Grove (2007:71) mention that qualitative research is a systematic approach used to describe life experiences and give them meaning. The above- mentioned authors further state that qualitative methods focus on understanding the whole and provide a process through which police officials can examine a phenomenon outside of traditional views (Burns & Grove, 2003:357). A Qualitative approach focuses on spoken words rather than numbers.

Qualitative research focuses on the phenomenon of interest, about which not much is known or has to be identified, where the in-depth investigation is to identify the phenomenon (Polit & Beck, 2006:19). According to Brink *et al.* (2006:113), this approach focuses on the qualitative aspects of measuring, experience and understanding of human actions from the viewpoints of the research participants in the context in which the actions take place. Qualitative researchers study things in their natural settings, attempting to make sense of, or interpret phenomena in terms of the meaning that people bring to them (De Vos, 1998:240). Qualitative methodologies allow researchers to know people personally and to see them as they are and to experience their daily struggles when confronted with real-life situations. It involves accepting that

there are different ways of making sense of the world, and is concerned with discovering the meaning seen by those who are being researched, and with understanding their view of the world rather than that of the researcher (<http://www.bmj.bmjournals.com>).

Additional ordinary police officials and members of the community were also requested to describe the challenges of firearm policing and their views were noted and described. Their responses were used as validations in a triangulation process for data collection and compilation of evidence for the development of strategies to overcome challenges caused by the proliferation of firearms in the country. This study therefore follows the qualitative research strategy.

4.5. The population and sample of the study:

A research sample is a section of the population selected for the purpose of a particular research project. Population refers to all the people or inhabitants of a specific area. Welman *et al.* (2005:53), further describe population as the full set of cases from which a sample is taken. Sampling, is according, to Trochim (2006:1) a process of selecting units from a population of interest in a way that studying the sample may fairly generalize the results back to the population from which they were chosen. Trochim believes that sampling is essential to save resources and workload, as well as to get results within known accuracy.

Creswell (2009:148) and Silverman (2011:70) state that the numbers of individuals are selected from the population, depending on the size of the research population. Silverman indicates that in qualitative research, sampling is done in order to obtain rich and in-depth data from informed participants who can make knowledgeable contributions to the research. Creswell (2009:148) indicates that sampling methods are classified as either probability or non-probability, where non-probability sampling is the preferred method for qualitative research.

The researcher used purposive sampling, as well as snowball sampling of the probability method. Snowball sampling relies on referrals from initial subjects to generate additional subjects (Stratpac Inc., 2011). The purposive sampling method entails selecting a sample on the basis of knowledge of the population, its elements and the nature of our research aims or purpose of the study (Maxfield & Barbie, 2012:153). Maxfield and Barbie believe that in studying a sample of a specific target group within the environment, we may get a sufficient overview of the whole community.

The population of the research comprises of the community of Pretoria, the capital city of South Africa, and some key participants outside Pretoria to whom the researcher was referred. Pretoria had a population of 2,921,488 in 2011, according to Statistics South Africa. The research sample consists of 22 participants, comprising SAPS members from the Central Firearms Register (CFR) where policies are developed and the Gauteng Provincial Office which is responsible for enforcement/ implementation thereof; operational SAPS members from Pretoria; representatives from hunters' association, sporting associations and dealers associations; and ordinary members of the public.

Members from the CFR and the Provincial Office, as well as firearm associations were selected based on their availability and extensive knowledge on firearms, whilst station members were selected based on their operational experience. The hunters' association chairperson opted to give a comprehensive interview on behalf of the entire hunting and sporting fraternity. An attorney who is also a sports person was also interviewed.

Qualitative researchers argue that the logic and power of purposive sampling lie in the fact that it selects information-rich cases for in-depth study (Creswell, 2011:70 and Silverman, 2011:70). These are cases from which one can learn a great deal about issues that are of central importance to the research purpose. In the case of the selection of Designated Firearm Officers (DFOs), the sampling was also purposive, because the researcher selected them on the basis of their direct involvement in the policing of firearms. The researcher considered them information-rich cases.

4.6. RESEARCH APPROACH

The Research approach considers and explains the logic behind methods and techniques used in the research (Welman *et al.*, 2005:2). It entails the research approach for the entire process.

The research question in this study seeks to assess the impact of the current firearm legislation in addressing the crime situation in South Africa and to suggest a firearm policing model that will improve the situation.

4.6.1 DATA COLLECTION

Data collection refers to the manner in which research data were collected and which instruments were used. Creswell (2009:178) believes that data collection entails gathering information from the actors within a setting (Creswell, 2009:178). Each data collecting method and measuring instrument has its advantages, as well as drawbacks and what counts as an advantage for one may count as a drawback for another (Welman *et al.* 2005:134).

The questions in the structured interviews were open-ended in nature and covered a wide range of the role players in firearm usage, distributors and law enforcement. Babie (2006:246) believes that the advantage of using open-ended questions in an interview is that they allow the respondent to give meaningful and in-depth reflections to the questions without being “pigeon-holed” into a predictable paradigm. By using open - ended questions in the structured interview, the researcher increases the chances of obtaining rich and detailed responses that can be used for qualitative responses.

Data were collected by means of structured interviews which were prepared according to the objectives of the study and sampling was purposeful due to the uniqueness of the firearm environment. A structured interview is designed in such a way that the interviewer has a list of issues to be covered during the interview (Gray, 2009:373). The chief advantage of interviews is that it allows the researcher to apply open-ended

questions which give the respondent freedom to apply and present the response comprehensively answering the what, why, when, how, where and who of the subject (Trafford & Lesham, 2008:91). Gray (2009:373) adds that the order of the questions may change, depending on the direction of the interviews and additional questions may be asked as new issues arise.

The general interview guide approach was employed when participants were interviewed. The advantage of this data collection method is that it ensures that the interviewer has carefully decided on how to use the limited time available for the interview. In this study, this method was helpful in making the interviews more systematic and comprehensive, because the issues to be explored were delineated in advance. This method also helped the researcher to keep the interaction focused, while allowing individual perspectives and experiences to emerge. In conducting these interviews the researcher introduced himself, and stated the purpose of the interview and issues of confidentiality. At the end of the interview the researcher allowed time for the participants to ask questions or make comments.

The central research question for this study was, “what should policing entail to effectively control firearms in South Africa?”, followed by probing questions that sought clarification of participants’ initial responses. Interview times ranged from 20-30 minutes, with few exceptions of the experts in the field that went just over 50 minutes. The interviews ceased when data saturation was reached, that is when information was repeated without any new views being presented.

The researcher was the facilitator in these structured interviews. Data collected through interviews were audio- recorded and later transcribed by the researcher himself. The transcribed interviews were classified according to three clusters, in accordance with their knowledge level in the firearm environment, namely Designated Firearm Officers (DFOs), firearm experts from research bodies and the hunting fraternity, as well as the general public. The classification was meant to compare and contrast perceptions on specific areas among the clusters. As indicated above, an audio voice recorder was

used to record the interviews. To maintain confidentiality, identifiers in the form of dates and numbers were used to code the transcriptions. In other words, transcripts from the voice recorder bore no names, but only numbers and dates.

Two methods were used in the counting of results from interviews. They are a simple head count and the classification of response descriptions or explanations of item(s) or phenomena. Some key statements relevant to the research topic were quoted verbatim.

4.6.2 DATA ANALYSIS

Analysis of data is a process of inspecting, transforming and modeling data with the intention of highlighting useful information, suggesting conclusions and using that data to support decision making. It is a process of data analysis which involves making sense out of text and image data by digging deeper and deeper in an effort to understand that data and abstracting sensible meaning from it (Welman, 2005:183). According to Welman *et al.* (2005:211), data analysis helps the researcher to investigate variables and their effect, relationships and their patterns of involvement in the world. Welman *et al.* also indicate that in qualitative data analysis, in-depth unstructured individual interviews, group interviews (a focus group), as well as content analysis of historical and personal documents, mass media, open- ended questions and unstructured interviews are used to analyse research data.

Maxfield and Barbie (2012:291) support Silverman's view (2011:64), who explains that the ultimate purpose of data analysis is to make assertions about the larger population from the sample that has been selected. These involve establishing categories and counting the number of instances when these categories are used in a particular text. Creswell (2009:218) indicates that data analysis relates to the type of research strategy that is chosen for the research within a qualitative approach. The strategy involves, among others, calculating the percentage of those in favour, against those who oppose, to formulate a good picture of participants' opinions on the issue (Maxfield & Barbie, 2012:15). Silverman (2011:66) believes that it simplifies and reduces large amounts of data into organised segments. In this research data were transformed, using Nvivo 10

software to code. A co-coder was used to create themes and to count the number of times they occur in the text data, in order to prioritise them. A session was later convened with the co-coder to discuss the analysed data. Tables and figures were used to better analyse and present data.

4.7 RELIABILITY AND VALIDITY

Reliability entails the extent to which a test is repeatable and yields consistent results, while validity refers to the extent to which a test measures what it is supposed to measure subjectively (Creswell, 2009:191). To ensure that this study is valid and reliable, the researcher used an exploratory way in a qualitative approach. Individual interviews were conducted in a semi-structured way, where the same open-ended questions were asked to all participants to accommodate their own independent opinions. The interview schedule and questionnaires were piloted before implementation thereof.

Other measures to ensure reliability and validity will include triangulation, member checking, confirming the chain of evidence and employment of external auditors to review the study. Triangulation, according to Creswell (2009: 191), is the usage of three or more methods of data collection within a single study to build a coherent justification for themes. In this study documents were consulted for theoretical information, research subjects were interviewed and crime patterns and statistics were analysed to validate any information gathered in the process. The sampling for the research, as discussed in paragraph 4.5 above, comprises of members from law enforcement, end-users of firearms and the general community who are somehow neutral in firearm matters. That in itself constitutes triangulation.

4.8 ETHICAL CONSIDERATION

Human beings will, for the larger part of the study, form part of the research and as such they need to be protected and mutual trust developed. Ethics in research refers to the social code that conveys moral integrity and adherence to widely acceptable values in the research fraternity. Due to the fact that research involves collecting data from

people about people, it is important for the researcher to anticipate ethical issues that might arise in the process (Creswell, 2011:87). It is important that approval be obtained from the appropriate body prior to the commencement of the research (Trafford & Leshem, 2008:100; Maxfield & Babbie, 2012:28). The Belmont report outlines the following ethical principles: respect for persons by allowing individuals to make own decisions regarding their participation in research; research should not do harm to participants, but should seek to produce benefits; and the benefits as well as the burden of participating in research should be balanced and distributed fairly (Maxfield & Barbie, 2012:34).

Researchers therefore need to protect their research participants, develop trust with them, promote the integrity of research, guard against misconduct and impropriety that might reflect on their organisations or institutions. Maxfield and Barbie (2012:30) indicate that it is the responsibility of the researcher to explain to the participants about confidentiality and advise that in fieldwork and interviews, the researcher should remove all names and addresses from data collection and replace them with identification numbers. Confidentiality in research is when a researcher is able to link information to a respondent, but promises not to divulge such identity (Maxfield & Barbie, 2012:30).

A researcher needs to weigh potential benefits from doing something against the possibility of harm to the people being studied. Social and criminal justice research may cause psychological harm or embarrassment in people who are asked to reveal information about themselves (Maxfield & Barbie, 2012:25). Maxfield and Barbie provide an example of domestic violence victims who may be exposed to greater danger if assailants learn about their disclosures to the researchers. Despite the confidentiality clause, some participants do not want their identity to remain confidential at times, which, according to Creswell (2011:90), allows participants to retain ownership of their voices and exert their independence in making decisions. Creswell advises that those participants must be well informed about the possible risk of such non-confidentiality and that their names are likely to be included in the final report and that their information might be infringing on the rights of others.

The ethical consideration for the empirical section of this research included individual and professional codes of conduct being observed during the development and execution of the research. General ethical standards for research that were taken into account were commitment to honesty, avoidance of plagiarism and respect for the dignity and confidentiality of the participants. Ethics clearance for the study was obtained from the Research, Ethics and Publication Committee of Unisa's College of Law. The ethical code regarding research by UNISA was adhered to. The researcher also adhered to the ethical code of conduct as stipulated in Section 70 and 71 of the South African Police Amendment Act 83 of 1998. Permission to conduct the study was also requested and obtained from the Gauteng SAPS Provincial office. Participation in the study was voluntary, after a thorough explanation and participants were assured that they could withdraw from it at any time if they so wished. Participants were guaranteed that the information provided would not be used for any purpose than what had been stated. Steps were taken to safeguard the confidentiality of records and any possibility of identifying the respondents' identities. The interview schedule was designed in such a way that no names or any form of identity of the respondents was revealed. All communication with respondents was done in private and kept confidential.

4.9 Challenges experienced during the study

Some complexities outside the researcher's control were encountered during the study and included the following:

The researcher wanted to benchmark our practices with those of the BRICS countries which are also largely regarded as developing countries like South Africa. Questionnaires were sent out to the embassies of the BRICS countries, and despite numerous follow up correspondence via e-mail, fax and registered letters, no response was received. The researcher had to rely on the literature review on those countries and other developed European countries and balance it with the SADC policing approach to develop a policing model.

The restructuring of the Firearm Registration Centres (FRC) and the investigation at the Central Firearm Registry where most participants were stationed also affected both the sampling and the quality of the responses. Firstly participants from the FRCs were distributed to stations around Gauteng and there were no proper data to track them down, except for the few that the researcher personally knew. Secondly, the quality of some of the participants' feedback was compromised by emotions and fear. From the FRC perspective, some participants used the interview as a complaint platform for their restructuring, whilst some CFR personnel were skeptical to participate freely due to the unfortunate coincidence of the interview and the criminal investigation. Some of those interviews were eventually destroyed because of the poor quality of information gathered. Participants were replaced with operational police officials who worked in the firearm environment and have rich knowledge of the environment.

4.10 CONCLUSION

In this chapter the purpose and objectives of the study, research design, and qualitative research method, population of sample, data collection and data analysis procedure were discussed. The chapter concludes with some ethical considerations. The detailed description of the research design and methodology provides a clear framework and parameters for the researcher to effectively conduct the empirical part of the research.

In line with the chosen research method, sampling and data collection technique, the data that were received from the participants were comprehensive enough to cover the research question and stated objectives of this study. All attempts were made to ensure that the study complies with the requirements of a scientific research study by ensuring that a sound process was followed from the beginning to the end and that ethical standards were adhered to. The next chapter presents details of the research results.

CHAPTER 5

PRESENTATION OF DATA COLLECTED

5.1. INTRODUCTION:

In this chapter the focus will be on the presentation and analysis of data collected by means of interviews with different stakeholders in the Pretoria area. The presented findings from participants are also analysed in the context of this study to cover the broader themes raised by this study.

The broader key themes to be covered in this chapter include among others, the composition of participants, the relevant legislation and crime situation, as well as legislation enforcement. The views of the three groups of participants, namely the Designated Firearm Officers (DFOs), the dedicated firearm users/ experts in the firearm environment and members of the public will be analysed and the general findings of the study presented. The specific findings will be outlined and related to the findings on the previously formulated research question and research objectives, while generating findings. The chapter will therefore present the data with a view of determining what firearm policing model may be implemented to effectively control firearms in South Africa.

In order to have a clear understanding of the dataset, the data are summarised by means of appropriate figures and tables. The analysis process undertaken is aimed at presenting the data in an understandable and interpretable way, which will assist in discovering trends and relations according to the research aims defined in chapter 1. The results obtained from the detailed analysis of the data are presented in this section. This forms the basis for the next section that will deal with data interpretation.

5.2. THE COMPOSITION OF THE PARTICIPANTS

The participants comprise of 22 role players that are made up of police officials, a representative from a hunters' association, a prominent researcher in firearms and members of the public. Participants are balanced at eleven each between males and

females and the dominant age group is the 46 to 55 years old age group, followed by the 26 to 35 years group and the group aged 36 to 45 in the third category, whilst the smallest group is between 56 and 65 years old. Most participants, with the exception of the members of the public, have vast experience and exposure of more than ten years in the firearm environment. The positions of the police officials interviewed include Designated Firearm Officials, Section Commanders, Section Heads, an explosive dog handler and crime prevention police officials, all with more than ten years' service. Their experience and exposure in the firearm environment vary between one and more than ten years, with a quarter of participants with 1-3 years' experience, the 4-6 years' experience group constituting almost half of the participants, those with 7-10 years' experience less than a quarter of the participants, and the majority are those with more than ten years' experience. See the table below for the summarised group distribution.

Table 5.1
Participants' Personal Data

Police and non-police participants					
Age Group	18 – 25	26 – 35	36 – 45	46 – 55	56 – 65
Sub-total	0	7	4	10	1
Category	Hunter	Sport shooting	Lawyer & Researcher	Community members	DFO
Sub-total	3	1	2	6	10
Occupation class	Section Head	Section Commander	Explosive dog handler	Community members	Ordinary DFO
Sub-total	2	5	1	8	6

The table above gives a tabular view of all participants, their experience, as well as their positions within the environment.

5.3 PRESENTATION OF RESEARCH FINDINGS

The opinions of the participants pertaining to the analysis of the firearm policing model that can be implemented to effectively control firearms in South Africa are presented below by means of broader and specific themes. In-vivo coding will be used where applicable to acknowledge the views and inputs of the participants.

5.3.1 LEGISLATION AND CRIME SITUATION

In this section, the responses of all the participants on what they perceived to be the link between firearm legislation and the crime situation are presented. Their opinions expressed their views on management, its impact on crime, the extent to which firearms are used in the commission of crime and from where they obtain information of crime in their areas. They voiced their concerns on the number of firearms compared to the knives and pangas in their area, the usage of firearms in the commission of crime and the amount of regulation captured in the Firearm Act. In this and subsequent sections, the voices of police officials will be heard, followed by that of the non-police participants. The opinions of the participants on this broader theme are broken down into specific themes and presented below.

5.3.1.1 Views on better firearms management

Government has a responsibility to ensure strict control measures to prevent the misuse and criminal proliferation of firearms. Police participants believed that if more staff is dedicated to deal with firearm-related matters, firearms will be better managed. They were further of the opinion that stiff penalties should be imposed for failure to renew firearm licences and that individuals convicted of firearm-related offences or offences of violent nature should face automatic disqualification to possess a firearm. Strict measures should be implemented when a firearm application is considered. The police participants were very adamant and insisted that:

... all firearms should have a tracking decoder so that if a firearm is lost from the lawful owner we can detect the whereabouts of that firearm. The decoder must be placed (built-in) in the mechanism of the firearm. We need to engage the gunsmith to assist in

the insertion of the decoder inside the mechanism not outside. This should only be done by the gunsmith only or replace it if it is damaged. The police must then have a device that can be linked to the decoder for tracing purposes. The database of the gunsmith must be linked to the police database...

Police participants added a number of options that need to be considered to improve better management of firearms in South Africa. Other inputs from this group relate to the introduction of firearm tracking devices: *"...my view is that all firearms should have a tracking decoder so that if a firearm is lost from the lawful owner we can detect the whereabouts of that firearm. The decoder must be placed in the mechanism of the firearm. We need to engage the gunsmith to assist in the insertion of that decoder inside the mechanism not outside. This should only be done by the gunsmith only or replace it if it is damaged. The police must then have a device that can be linked to the decoder for tracing purposes..."* and the linking of firearm dealers' and gunsmiths' system to the Police Firearm Control System.

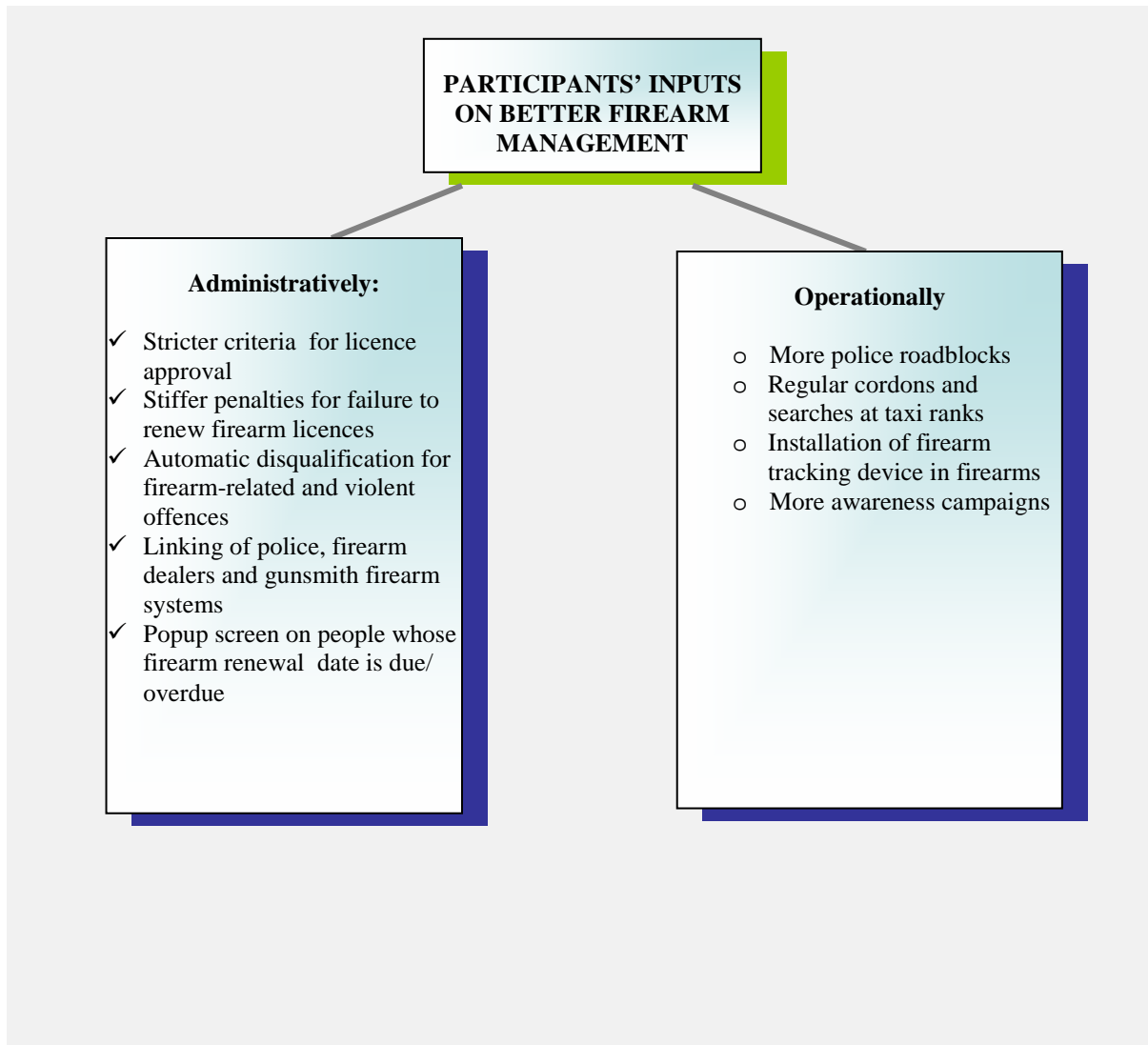
Non-police participants emphasised the fact that firearms should be restricted to those who have a real need for them and cited law enforcers as an example. They further called for more roadblocks and emphasised the importance of cordon and searches around the taxi ranks where firearms are believed to be in abundance.

A third of non-police participants indicated that they have friends, family and neighbours who are firearm owners. They believed that most of those owners do not deserve to have those firearms because such firearms are used to settle domestic disputes, to commit crimes such as robbery and some of the owners are drunkards. They also cited poor screening of firearm applicants as another reason for the problem. A quarter of participants were of the view that firearm owners deserve to have those firearms because proper background checks were done and they are properly trained by accredited training providers. A concerned participant indicated that *"currently a lot of people have been issued with firearms even if they don't own houses or vehicles and I don't know how"*.

Both police and non-police participants were of the view that the firearm environment should be better managed. Administratively, both groups agreed on improved firearm administration, with non-police participants appealing for stricter criteria when determining eligibility to possess a firearm, whilst the police participants called for stricter and firmer approach for firearm application by the consideration panels/ officers. Police participants further called for stiffer penalties for firearm owners who fail to renew their firearm licences, the automatic disqualification of firearm-related crime offenders and the linkaging of the police firearm system to those of the firearm dealers and gunsmiths for control purposes.

Operationally, both groups of participants were of the opinion that more police action will manage firearms better. Non-police participants specifically called for more roadblocks, as well as cordons and searches at taxi ranks. Police participants further called for the introduction of firearm tracking devices to improve the retrieval/ recovery rate of lost and stolen firearms. Other areas highlighted in the feedback include a system-generated list of people who failed to renew their firearm licences and awareness campaigns to educate the community on the safekeeping of firearms. The table below gives a summarised overview of inputs on better management:

Figure 5.1 Firearm management



Source: Researcher s illustrated concept

The above diagram can be summarized by means of the Pareto principle of the 75/25 rule which stipulates that if 75 percent of firearm administration can be improved, only 25 percent will be done operationally to complete the firearm safety cycle (management.about.com). In essence this points to the core of firearm policing, which starts with the licensing process where an important decision is taken regarding who should be allowed to have a firearm licence.

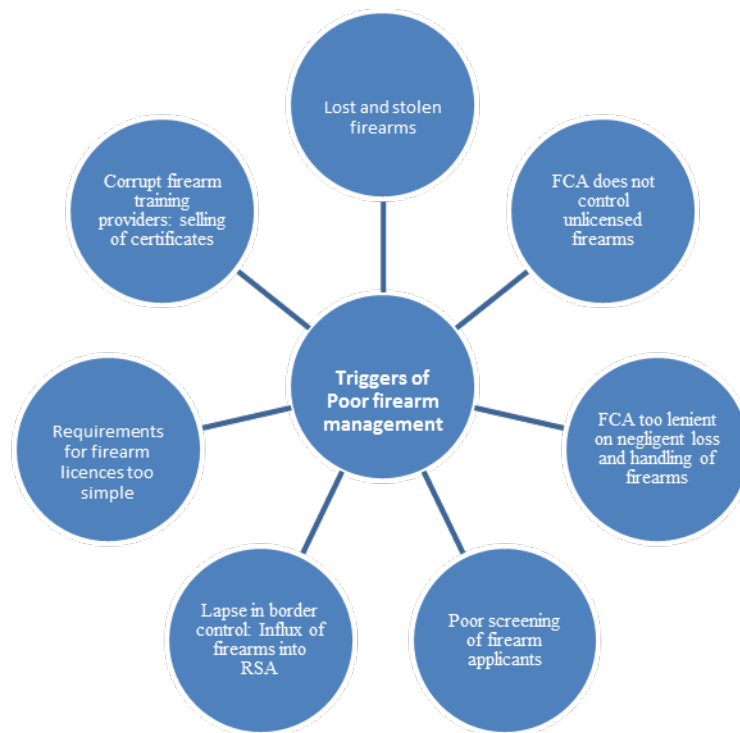
5.3.1.2 Impact of Firearm management on crime situation

The police participants' opinions held opposite opinions on the impact of effective firearm management on the crime situation. Reasons advanced by those who believed that there will be no impact even if firearms are managed properly, cited among the reasons mainly that they believed the crime situation is caused by elements that are beyond police control; that lost and stolen firearms contribute to the firearm proliferation, a scenario which is unstoppable and that there is a big pool of unlicensed firearms that are not regulated. The second category was of the view that the Firearms Control Act 60 of 2000 is not strict enough on negligent loss and handling of firearms and they mentioned the poor screening of prospective firearm applicants. The last category stated that the firearm proliferation is exacerbated by a pool of firearms coming from outside South African borders. They also mentioned the non-compliance with the FCA provisions by the police and the community, as well as the public not taking responsibility for their firearms.

Those who believed that better firearm management will have a positive impact on the crime situation argued that access to firearms is easy and should be tightened up; service providers who sell proficiency certificates to firearm applicants should be dealt with harshly and firearms should be restricted to law enforcers only. One participant indicated that *"...the current situation in the country with the shootings that we are experiencing, it means more effort still needs to be done. ... I think roadblocks and searches at taxi ranks and national roads needs to be strengthened. I actually believe firearms should be restricted to law enforcers only"*.

As indicated above, participants had different opinions on what contributes to the perceived state of poor firearm management in South Africa. The following table illustrates both internal and external factors that are believed to trigger the situation:

Figure 5.2: Triggers of Poor firearm management



Source: Researcher's illustrated concept

Most non-police participants were in agreement that better firearm management may have an impact on crime. They believed fewer firearms will result in less serious crime. Participants pointed out that currently, even people without homes have firearms. The few participants who disagreed with the statement were of the view that most crimes are committed with illegal firearms. A seasoned researcher in the firearm environment had this to say on the impact of the FCA on crime:

“The FCA can do what? Only manage firearms that we know of. It can do nothing about firearms that were brought in illegally and distributed by the previous regime to homelands and other role players that they thought could be of help to them in the war that never happened. Those firearms are still actively involved in the society, but cannot be controlled. So the FCA can effectively manage people who are willing to open up so that they can be managed, nothing about other stuff. That’s where the problem lies and it relates to (...) when you speak to other African countries they

can't believe the amount of violence that we have in South Africa ...”.

The rest of the participants were unsure and did not want to speculate on the subject. Both groups of participants believed that there is a huge pool of firearms in circulation and most of them are unlicensed. Participants were of the opinion that lost, stolen and smuggled firearms are the ones mostly used in the commission of crime and are therefore difficult to control and manage through the Firearms Control Act 60 of 2000. Non-police participants were adamant that fewer firearms are likely to result in fewer serious crimes. Police participants were convinced that access to firearm licences is too easy, citing specifically the firearm application screening process and they suggested that it be tightened up. They believed that if the Firearms Control Act 60 of 2000 can be strictly applied on negligent loss and handling of firearms, it will have a positive impact on firearm-related crimes.

To broaden and put the subject differently, the purpose of this section of the interview was to get participants' views on firearm control, whether there is a causal link between firearm control and violent crime, as well as to establish whether effective control can reduce firearm-related incidents. Understanding how participants viewed and perceived firearm management in relation to crimes committed will be critical to establishing how participants perceived the firearm control and enforcement capabilities of the organisation.

There were mixed feelings on this subject, especially from the police participants. Non-police participants were in agreement that fewer firearms mean less crime with only a few insisting that most crimes are committed with illegal firearms. The police participants' mixed feelings stem from the facts that they believed that there are big pools of firearms that are unmanaged and that are used in the commission of crime. They suggested that the starting point should involve dealing decisively with service providers who are selling proficiency certificates to firearm applicants, thereby contributing to a pool of firearm owners who cannot properly handle and look after their firearms. They were further of the view that prospective firearm owners should be

thoroughly screened to sift out at-risk individuals, that border control should be stepped up to reduce the influx of firearms from neighbouring countries and that negligent loss should be sufficiently punished.

“... mostly firearms used are not registered or they are from outside...I believe our border need to be beefed up (reinforced). I went once or twice out of the country and it was somehow easy to go past without being searched. It normally happens on busy days when there are long queues and it is too hot or too cold with people (clients) mourning (complaining). The other category belongs to the people who lose their firearm. People apply for their firearm and they don't keep those firearms safe, sometimes they buy safes but not mount it correctly on to the wall...”

“I am not so familiar with the FCA, but I believe there is a need for amendment to restrict people who possess firearms. People like those with criminal record, people without valid reasons, people without proper safes to place firearms safely in the house. I believe those are the areas that need to be included in the amendments (to be restricted)...”

“South Africa uses a restrictive firearm control system in the world. It is stricter than anything I can think of on various levels. we (our system) are open and everyone can apply at any given time, but we got lot more control measures that are in place where you are evaluated and you need to get references ... So will there from a firearm control perspective be less murders and less violence that are firearm-related/ I think combining those two things will be trying to combine two different concepts. Firearm control has got nothing to do with firearm violence. The FCA can ... only manage firearms that we know of. It can do nothing about firearms that were brought in illegally and distributed by the previous regime to homelands and other role players that they thought could be of help to them in the war that never happened. Those firearms are still actively in society, but cannot be controlled. So the FCA can effectively manage people who are willing to open up so that they can be managed, nothing about other stuff ...the same person with a knife would probably think twice before trying to kill a person that he got a grudge with. It is much more personal type of killing, unlike a knife where you have to look at

the person in the eye before killing him. With a gun you pull a trigger and walk away. It is more of a finger action”.

It is significant to note that the majority of participants were of the opinion that effective firearm management can control firearms and reduce firearm-related incidents. This suggests that participants had confidence in the legal framework applicable to the firearm environment as well as trust in the law enforcement agencies. Again it is significant to note the use of the phrase “effective management can control firearms ...”, which suggests that the current practice is not what it should be and that participants seemed to be referring to the ideal firearm management. It can be argued that proper management of firearms will have an impact on firearm-related crimes and incidents only if enforcement challenges are effectively addressed.

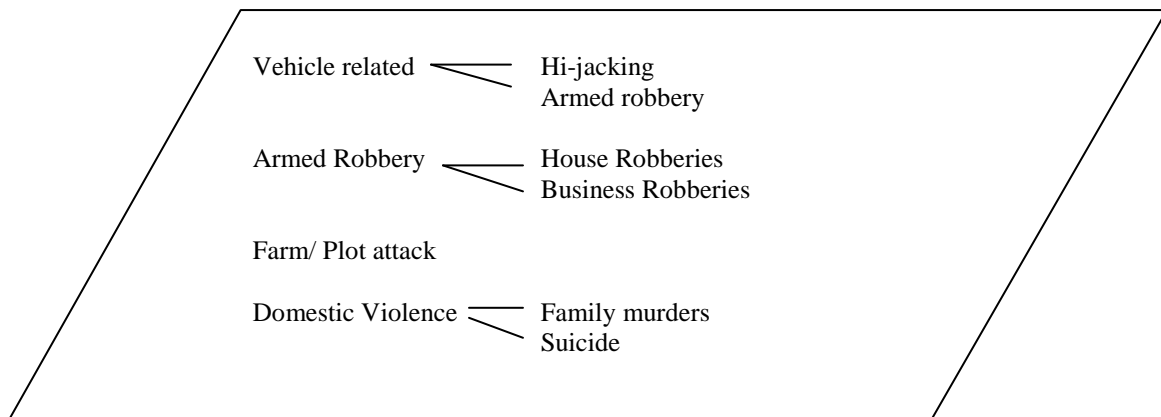
5.3.1.3 Firearms usage in crime

Police participants seemed to be divided on firearm involvement and usage in crimes. Most participants in this category indicated that firearms are rarely used in crime, followed closely by those who said firearms are used mostly. An unusual response was in the third place where police officials indicated that firearms are used in domestic violence. *“In instances of domestic violence frequently and that’s where we open Section 102 enquiries. We receive on average say ten a month ...”.* Among the smallest indications were those who indicated that firearms are never used in crime, are used in vehicle theft cases and those who indicated that firearms are merely used as a threatening tool. Very few participants indicated that firearms are always used in the commission of crimes.

Most non-police participants indicated that firearms are used mostly in crime, followed by those who believed firearms are rarely used. The smallest category indicated that they had never encountered an incident involving firearms and they did not know what the frequency is.

Both police and non-police participants believed that firearms are used mostly in the commission of crime. The majority of police participants indicated that firearms are used rarely, followed by those who said mostly and in the third category those who viewed the firearm as a threatening tool in cases of vehicle theft. Most non-police participants believed firearms are used mostly and contrary to the police participants' view, they put rare usage in the second category. Police participants singled out vehicle-related crimes as crimes where firearms are mostly used, whilst non-police participants stipulated farm and plot attacks. The remaining police participants were of the view that firearms are merely used as a threatening tool during the commission of crimes such as domestic violence and a few non-police participants indicated that they had never encountered firearm-related crimes. The figure below illustrates the types of crime committed with firearms.

Figure 5.3: Firearm usage in crime



Source: Researcher's illustrated concept

Interestingly, the police believed firearms are used mostly in domestic violence whilst non-police participants pointed to farm and plot attacks, as well as robberies in the urban areas.

5.3.1.4 Information on area crime

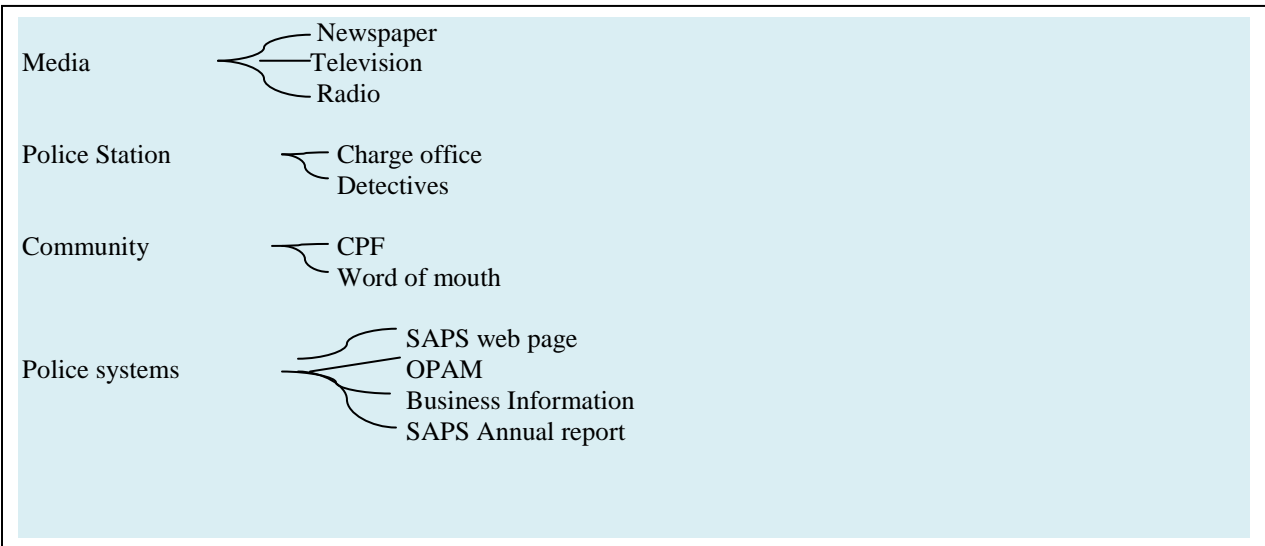
Police participants gave pertinent responses on their sources of information about the crime situation in their area. Most participants indicated that they got their information

from the Crime Information Assessment Centre (CIAC), followed closely by the local police station and informers, as well as the general public. The unexpected response also on the top of the scale was that the police officials receive their information about crime in their area from the print media, especially since the question involves crime within the members' own area. The next batch of responses includes the crime statistics office, the firearm control system, SAPS intelligence and television. The lowest on the chart are the Business Information (BI) system, the Operational, Performance and Management (OPAM) system, SAPS annual report and SANDF intelligence. This was also another unusual response from the police since the BI and OPAM systems are the main sources of crime information.

Most non-police participants indicated that they get their information on crime from the press, followed closely by television. Word of mouth from community members was third on the list. Other sources include collaboration with the police, the Community Policing Forum, the SAPS home page and victims of crime situations. It came as a surprise that non-police participants indicated that they get their information from the SAPS home page, as this is somehow expected from police members.

Both police and non-police participants indicated that they get their information on crime from the media and television, police stations, the community and the SAPS web page. It was fascinating to realise that non-police participants visited the SAPS web page to update themselves on the crime situation. Also of interest was the indication that they get to know about crime incidents from the victim of crimes. The last eye catching category even if it was in the minority, is the Community Policing Forum (CPF). This indicates that CPF members often speak to the community members on the crime situation in their area. Additional areas where the police participants get information on crime include the OPAM, BI system and the SAPS annual report. The following figure illustrates the sources of information commonly used to acquire knowledge on crime.

Figure 5.4: Information on crime



Source: Researcher's illustrated concept

To sum it up, both police and non-police participants commonly indicated that they get their information on crime from the press, television and community through a word of mouth. Police participants indicated further that they also get their information from the CIAC office, local police station and SAPS crime intelligence.

5.3.1.5 Quantity of firearms against knives and pangas

Police participants were asked a perception question on the number of firearms in circulation in relation to knives and pangas and the almost over a half of them indicated that they believed there are more firearms. They believed that there are far too many legal firearms of which most are lost due to negligence. Other reasons suggest that corrupt officials sell surrendered firearms and the influx of illegal firearms from neighbouring countries. Just under half of the participants believed that knives and pangas in circulation are more than firearms. They were of the view that firearms are only found at specific scenes, as legal firearms are kept safe in the care of the licence holder and that the police recover more knives and pangas than they do firearms.

This perception question brought to light fascinating feedback from non-police participants. Most participants indicated that there are definitely more firearms than knives and pangas, citing among others the following reasons, namely that people generally like firearms; there are already more firearms in circulation; more and more firearms are used in the commission of crime and the black market makes firearms more accessible. The remaining few indicated that there is more crime committed with pangas and knives.

There was consensus from both groups of participants on this perception question that there are more firearms in circulation than pangas and knives combined. Police participants further believed that there are just too many legal firearms in circulation that end up being lost or stolen due to negligence. The non-police participants indicated that there are already more firearms in circulation and more and more firearms are being used in the commission of crime. They blamed the black market for easy access to firearms, whilst the police participants pointed fingers at the neighbouring countries for the massive influx. A few police and non-police participants believed that there are more pangas and knives, with the police indicating that more pangas and knives are found at crime scenes in comparison to the firearms.

Interestingly, almost a third of police participants indicated that they did not have knowledge on the number of firearms in their policing precinct, citing lack of an accurate database and the disbandment of the Firearm Registration Centres (FRC) as the main reasons. Just below half of the participants indicated that they have knowledge of firearms quantities within their precinct and their main source of information is SAPS 86 (the firearm register).

This perception question provoked ideas, with both participants in agreement that there are more firearms in the streets than knives. Police participants blamed this situation on theft and negligent loss, as well as corruption within the police ranks, whilst non-police participants referred to the black market where firearms are allegedly easily accessible.

On the other hand, those who believed knives are more related their views to the actual knives that are physically found at the crime scenes. One respondent attributed publicity to the growing perception. He insisted that *“it is a perception question not based on facts. The facts are that it is almost impossible. There must be more pangas and knives in the field than firearms. It is the practical matter of mathematics. The perception of people that is created by the violence that is generated by firearms injuries is that it is more threatening and is a newsworthy item”*.

This section tested the perception level on violent crime involving firearms and the information gathered suggests that more efforts still needs to be made to ensure community safety and to make the people of this country feel safe.

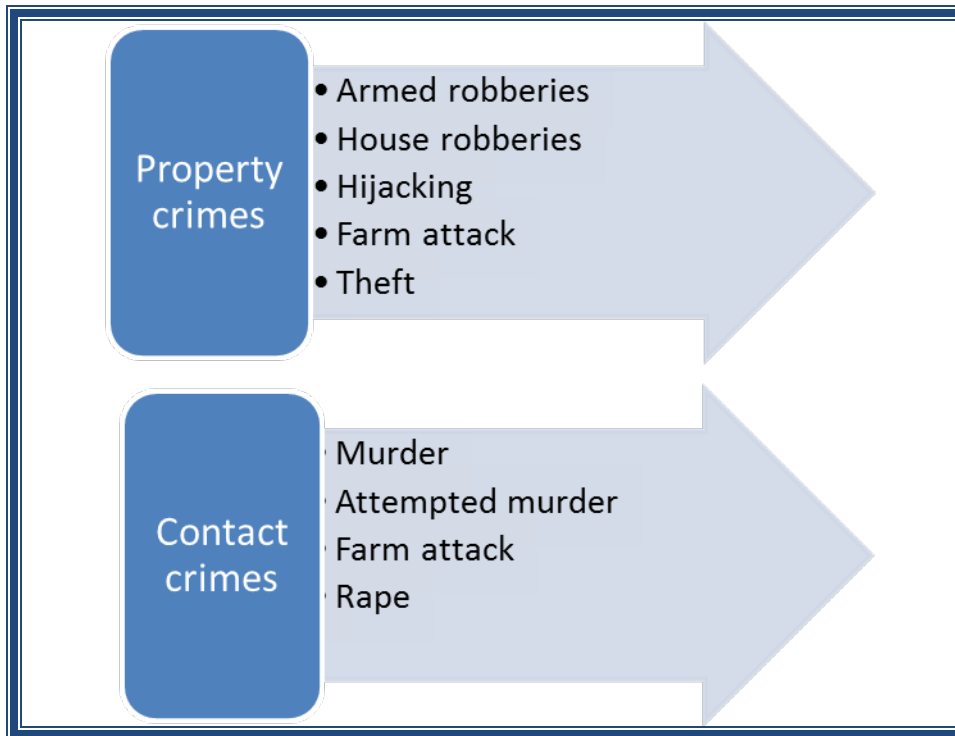
5.3.1.6 The nature of prevailing crimes

Police participants were further asked to indicate, in addition to the involvement of firearms in crime, to indicate specific crimes in which firearm usage is more prevalent. House breaking topped that chart, followed by robbery, car hijacking and domestic violence. Other crimes indicated are armed robberies, house robberies, theft of motor vehicles, assault and the least reflected crimes were drug-related, human trafficking and rape. House robberies were most mentioned by the non-police participants, followed closely by hi-jacking and theft and lastly, t cable theft. Farm attacks, murder, rape and smash- and- grab crimes occupy the last positions on these participants' list.

Both police and non-police participants listed South Africa's top three property crimes in their list, with a little deviation because non-police participants listed cable theft in their top three. Property crimes in both lists are house breaking and theft; house robberies, armed robbery and hijacking. Other crimes listed by the police participants are rape, human trafficking and domestic violence where a firearm is mostly used as a threatening tool.

The figure below illustrates the most prevailing crimes where firearms are used.

Figure 5.5 Nature of prevailing firearm crimes



Source: Researcher's illustrated concept

Robberies, house breaking and house robberies, armed robberies and carjacking are according to participants most prevailing crimes where firearms are used, as reflected in the figure above. There are some similarities in the nature of prevailing crimes where firearms are used chosen by both groups. In the top three bracket both the police and non-police participants put house breaking, robberies and car hijacking. Surprisingly, the police participants rated domestic violence in the fourth place, ahead of theft of motor vehicles, armed robbery and house robberies.

5.3.1.7 The extent of firearm regulation by the FCA

In an effort to qualify the above statement, police participants were asked whether the Firearms Control Act 60 of 2000 sufficiently regulates firearms and a third of the

participants indicated that it does regulate firearms sufficiently. They cited among their reasons the overall reduction in the number of firearms owned, which they attributed to training given to police officials on the FCA and the effective enforcement part thereof. Those who believed the FCA does not sufficiently regulate firearms raised challenges such as poor implementation of the FCA, the failure to renew firearm licences which is not sufficiently punished, access to firearms that is too easy and leniency of the appeal board where all appellants are simply granted firearms. Other reasons relate to the administration of the FCA which involves a poor filing system, an out-dated firearm database, lack of or poor process control systems and the lack of training of firearm administrators. It is extremely significant that two thirds of the police participants did not think that the FCA is effective in regulating firearms. *"...we can really improve on that. There are still provisions that are in the act and we are not enforcing it accordingly"*.

When non-police participants were asked whether the FCA sufficiently regulates firearms, most of them agreed with the statement. They believed that the FCA gives clear cut guidelines to law enforcers and there are proper checks and balances prior to granting a person a firearm licence. *"I think so. I don't see any way of tightening it any further. In principle --- there is nothing more that can be done. South African legislation is good and cannot be bench marked in Africa..."* The remaining quarter believed the FCA should have more restrictions on who should own a firearm and that severe punishment be meted against those who supply criminals with firearms.

Both groups of participants agreed that the Firearms Control Act 60 of 2000 reasonably regulates firearms. Police participants pointed to the overall reduction in privately owned firearms and attributed that to effective enforcement. Non-police participants were of the opinion that the FCA gives clear guidelines to law enforcers and there are clear checks and balances prior to granting a person a firearm licence. They also believed that severe punishment is meted against those who supply criminals with firearms. Some police participants disagreed with the statement and pointed out gaps like poor administration of some sections of the FCA, people failing to renew their licences getting away with light fines, the leniency of the appeal board that grants almost all

appeals, an out-dated firearm database and an ineffective process control system.

Generally, participants agreed that the Firearms Control Act, 60 of 2000 sufficiently regulates firearms. Police participants based their views on the overall reduction in the number of firearms in circulation. Non-police participants appreciated the background checks done on firearm applicants prior to granting a licence. Few as they may be, the remaining participants most of them are police officials presented pertinent reasons that may need to be followed up. They indicated that people do not renew their licences and that they go unpunished; that the appeal board is too lenient in granting all appeals, and that the firearm database is out-dated.

5.3.2. LEGISLATION ENFORCEMENT

Following on the previous section that dealt with the management of firearms, the extent to which the firearm legislation is implemented, will be explored, covering the extent to which the Act answers to firearms-related transgressions, the communication of the unfitness declaration and the restriction of those who are found to be unfit to own a firearm. The other themes that will be explored include the restriction of firearms to at-risk individuals, police enforcement of the Act, challenges that hinder the effectiveness of the FCA and the participants' inputs on ideal firearm policing.

5.3.2.1 How FCA responds to firearm-related transgressions

This section represents the views of police participants only. Non-police participants were not asked to answer this question, because it is more legalistic and operational in nature and people not directly involved in the enforcement of the Act are not exposed to its contents and may find it difficult to answer. The police participants' views were invited on the above statement and they mostly responded in the affirmative. More than three quarters of the participants believed that the FCA provides answers to firearm-related transgressions. They referred to Section 120 of the FCA where offences are listed and believed the Act is comprehensive on paper and gives proper guidance to law enforcers. Those who believed the FCA does not answer firearm-related transgressions raised lack of guidelines for operations and the low level of knowledge on FCA among

police officials as their reasons. A Designated Firearm Officer had this to say about police officials, *“I think internally there is still a discrepancy in terms of knowledge. Members down at the station don’t make the effort to learn about the FCA”*.

5.3.2.2 Police enforcement of the FCA

Studies indicate that robust enforcement from law enforcement agencies, as well as the judiciary system will ensure better compliance and will eventually improve safety of the community.

More than half of police participants believed that the SAPS is enforcing FCA effectively, whilst the remainder indicated that SAPS is not enforcing it well. They believed stricter control measures are needed for effective enforcement. Participants believed firearm owners are not sufficiently visited to ensure compliance. Their second area of concern was with the firearm trainers. It was the view of the police participants that accredited firearm training providers are focused on business and do not actually impart knowledge to firearm applicants who undergo their training. Other areas of concern that were raised by fewer participants relate to the duration of the competency certificate, the lack of quality control, police officers not adhering to prescribed procedures, a need for stricter border control and the volume of firearms in the streets due to loss from both individuals and the public sector.

Police participants indicated that the police are doing well by collaborating with firearm associations and by educating the public on firearm processes using media such as local radio stations and local newspapers. Just below half of the respondents stated that the police confiscate firearms during roadblocks and stop-and-search operations. A quarter of participants indicated that the policing approach to firearms has improved with the emphasis on awareness campaigns and they credited the police for tracing firearm holders who are in conflict with the law. Participants also highlighted the importance of training and awareness for both the police officials and the general public as a way to improve efficiency and effectiveness in the administration of firearms.

Non-police participants generally believed that the police are effectively enforcing the FCA by screening applicants before awarding firearm licences and curbing illegal movements of firearms through roadblocks. A professional hunter summed it up when he said *“there has been some administrative problems with the implementation of the Act, but that has been sorted. That was frustration with the processes at Central Firearm Registry and that frustrated professional hunters and shooters regarding the issuing of licenses, the time period for the issuing of licenses, specifically lot of frustration during reregistration of firearms. But currently the situation is much improved and we have far less hiccups and far less problems when it comes to both issues of licensing and relicensing”*.

A smaller proportion of participants disagreed and indicated that corrupt officials act as catalysts to the problem. They also mentioned lack of vigour in enforcing the FCA and a renewed need for the revival of the firearm unit. Non-police participants further believed that the community should continue to collaborate with the police to combat crime, inform police of illegal firearms, inform the police of people posing danger to the society, be available for interviews if and when needed, and make a conscious effort to know the safety aspects connected to firearms. A participant politely gave this view: *“I think they should inform the police when they see someone illegally in possession of a firearm or who is a danger to the community and is having a firearm, they should report that to the police”*.

Both groups of participants agreed that the police are not doing too well in the enforcement of the Firearms Control Act 60 of 2000. They pointed to the unfocused manner in which police conduct roadblocks which are supposed to be an effective tool in curbing and disrupting the movements of firearms. Administratively, areas of excellence mentioned by the non-police participants include the fact that the screening process of firearm applicants sufficiently sift out non-qualifying individuals, whilst police participants indicated that the board of enquiries deals decisively with firearm owners who contravene the FCA. Police participants further indicated that collaboration with the firearm associations, as well as the public education on firearm-related matters helped

to improve that situation. A few non-police participants however, did not believe that the police are doing well. They mentioned the few corrupt police officials who are catalysts to the problem. They believed the revival of the firearm units will go a long way in sustaining the environment and improving the enforcement of firearm legislation.

Both police and non-police participants indicated that roadblocks as well as stop-and-search exercises help to address firearm-related incidents. Non-police participants added improved administration and background checks among actions that improved police enforcement. Both participants were in agreement that such actions are effective in addressing firearm challenges. Non-police participants however, raised a number of areas that still need attention to make the environment even safer. They suggested that corrupt officials who are catalysts to the problem should be dealt with decisively; border control should be stepped up to minimise the influx of firearms into the country; and that firearm-specific roadblocks should be conducted. A participant, who is a regular traveller pointed out that *“When we leave the country, South African borders are very open. Legal people walk through border entrance and exit, but we know a lot of people walk across the Kruger National Park to different countries. So I don’t believe that our border control in that sense is perfect. It is overdone when it gets to the airport. It is much regulated when you travel internationally”*. The police participants concurred with the non-police participants on unfocused roadblocks and added lack of intelligence on crime, as well as a need for a dedicated firearm tracing unit.

5.3.2.3 Frequency of firearm-related operations

Most police participants indicated that police operations are generally non-specific (sporadic), whilst a quarter said weekly and monthly. The majority of non-police participants indicated that firearm-related operations are sometimes held, with just below half saying “they just ask the driver if he/ she is having a firearm”. A few said they had never come across police searching for firearms. Almost half of non-police participants blamed the timing of police roadblocks and their generic focus in their operation as the main contributing reasons for police operations to be ineffective. Just under half of the participants indicated that corrupt officials act as catalysts to the

problem; the fact that police are issued with criminal record detection devices (morpho-touch) but still do not use it optimally to address crime; firearms are stolen from official institutions and not recovered; and firearm owners fail to renew firearm licences, but are not tracked down during police operations. A practicing lawyer indicated during the interview that *“all Law enforcement agencies must play their part in enforcing it. From the traffic with by-laws like street shooting, police with patrols and surprise visits to owners (firearm) to the courts with appropriate penalties to the prisons with parole considerations”*. The responses suggest that the police do not really check for firearms in their operations. They conduct generic searches and by luck may stumble across a firearm.

5.3.2.4 Effectiveness of police operations

The majority of the police participants indicated that police operations are really effective and they have helped to rid the community of unlicensed firearms. Those who felt that police operations are not effective attributed such failure mostly to unfocused roadblocks, lack of intelligence, and emphasised the need for a dedicated firearm tracing unit that will primarily focus on firearms. A research participant indicated that *“whenever they (police) are having roadblocks, they do ask the occupants if they are having firearms and if you say you don’t have, they usually don’t search the vehicle”*.

Non-police participants believed that there are still lots many illegal firearms in circulation due to poorly planned roadblocks, a general lapse in border control, resulting in piles of firearms crossing the borders into South Africa and firearms lost or stolen from official institutions and not recovered. Another issue that was mentioned is that of corrupt officials acting as catalysts to the problem. *“The numbers of illegal firearms are many and mostly are coming from Mozambique and Zimbabwe as well as SAPS 13 firearms that are sold to criminals by the police. During amnesty, members of the public come forth and surrender those firearms just for them to land back with the criminals due to corrupt police members”*.

Participants had different perspectives, with the police participants agreeing that police operations are effective, but can always improve by refocusing roadblocks and sharpening crime intelligence on firearm-related transgressions. Non-police participants disagreed with the statement and believed that there are still large numbers of illegal firearms out in the streets as a result of poorly planned roadblocks, poor border control that contributes to the influx of firearms into South Africa, and the corrupt police officials who are catalysts to the problem.

Accordingly, most police participants believed police operations are non-specific, the second category indicated weekly encounter followed by monthly operations. A few indicated that operations are conducted on a daily basis, whilst the remainder indicated that there are no firearm-specific operations. The non-police participants' responses reflected that firearms are checked sometimes, with a few more indicating that they saw such practices in every encounter they had with the police. An equal number of the participants indicated that they did not know because they actually did not know what the police are looking for whenever they conduct operations.

5.3.2.5 Sources of firearm information

More than three quarters of police participants indicated that they get their information on firearms from the Firearms Control System (FCS). The remaining participants rely on informers, the CIAC and DFO for firearm information. *“CIAC at the local police station, crime stats, BI system, OPAM system, SAPS annual report, local newspapers, print media and television”*.

In response to the question on how the participants knew about firearm ownership, most non-police participants indicated that they had seen those firearm owners carrying firearms, followed by those who personally know the firearm owner. Those in the minority were either interviewed for the applicant's firearm application, or do sport or hunt with the firearm owner. A participant indicated that *“Some of them I know because I have seen them carrying firearms, others when we are talking you hear a person saying*

I forgot my firearm at home and I need to go back to collect it”.

It is actually expected of the police to get their information from the sources indicated above and to an extent the same may be said regarding the non-police participants. The response that raised eyebrows was that of non-police participants who indicated that they saw the firearm owners carrying the firearms around, which is a contravention of the Firearms Control Act 60 of 2000 regarding the safe carriage of firearms when not kept in a safe. The firearm is supposed to be carried in a concealed manner.

5.3.2.6 Communication of unfitness declaration

This is also an operational question which was answered by police participants only. The common choice of communication indicated by police participants was a formal letter and a copy of the hearing records for the Designated Firearm Office not handling the case, detectives investigating the criminal case, firearm owners and SAPS 13 clerks. Just under half indicated that administration clerks at times fail to capture the unfitness declaration, which compromises the integrity of the police data. They also expressed a need to educate the public on the unfitness declaration by means of local radio stations and local newspapers.

Those declared unfit are given options to dispose of their firearms by either giving them to another natural person who must also apply for a firearm licence, surrender it to the police for destruction or sell it through the correct channels. Participants were asked how decisions on firearm administration processes are communicated among various role players, especially when a person is declared unfit to possess a firearm.

Police participants from the Firearm Registration Office indicated that in case the Designated Firearm Officer (DFO) is not handling the enquiry into the fitness of the person to hold firearms, he/ she will be notified in writing by means of a formal letter. They however indicated that it happens very rarely that the local DFOs are not involved, since they are the custodians of these types of enquiry. A few indicated that they utilize the local police station to notify the DFO.

Police participants who are detectives emphasised that detectives are the carriers of dockets and in most cases they are responsible for disposal instructions on firearms that are exhibits in the cases. Participants indicated the following means of communication: the majority indicated that they are given a copy of the hearing per hand if locally, and in writing if the distance necessitates that. They further indicated that in case of a Section 103 unfitness declaration by the courts, an endorsement is made in the docket regarding such unfitness declaration. The remaining few indicated that they communicate such information to the branch commander of the detective service.

Sometimes the person appearing in court or in the unfitness enquiry is not the firearm owner, or due to other reasons the owner is not personally in attendance and a need arises to inform him/ her of the decision. Most police participants indicated that the firearm owner is informed during the hearing. Others indicated that police officials from the local police station do convey the message, whilst a few indicated that the DFOs are the ones who ensure that a message is conveyed and that additional firearms are disposed of.

The SAPS 13 store clerk is responsible for the safe keeping of exhibits, including firearms in police custody. To prevent firearms being released into the wrong hands, proper communication is essential on the manner of disposal. Police participants indicated in their majority that the store clerk is informed in writing, with a copy of the ruling attached. Other participants indicated that a disposal order will be made in the SAPS 13 register and a few indicated that the DFO will communicate the decision to the store clerk.

Other role players that may play a role in the unfitness declaration include the administrative staff, the appeal board and the general public. Police participants indicated that it is important for the administrative personnel to correctly capture unfitness declarations to ensure that unfit people are restricted from accessing firearms.

The appeal board is normally involved when the firearm owner appeals the unfitness decision. Some participants also believed that there is a need to raise public awareness regarding an unfitness declaration in local newspapers and on community radio stations. They believed this will serve as deterrents for firearm misuse and negligence in general.

The next question also relates to organisational processes that are likely to be known to the police officials only and was therefore not extended to the non-police participants. There may be a few individuals among the non-police participants that may have knowledge on the subject but the researcher felt that the ratio may compromise the proportion of the sample.

Police participants however had much to say on the subject. The most common means of communicating an unfitness declaration to all role players, according to police participants is in writing through a formal letter, followed by a copy of the hearing (ruling). The most seldomly used communication method is the local police station and the Designated Firearm Officers. A few other communication processes relate to the endorsement of the unfitness declaration in the case docket, in the SAPS 13 register and sending the unfitness summary to the appeal board to prepare them on the expected workload.

Participants indicated further that people convicted of firearm-related crimes and violent offences are restricted from possessing firearms through a board of enquiry. Most police participants indicated that they are declared unfit by the police in terms of Section 102 and by the court in terms of Section 103. They further indicated that such unfitness declaration process result in a decision being made on the disposal of the firearm in question. Participants emphasised that as soon as a person is declared unfit either by the court or the police, he/she needs to dispose of the firearm within a period of 60 days. Fewer participants indicated that the firearm applicant's criminal record, as retrieved from the Local Criminal Record Centre (LCRC), is the main restricting tool and that came as a surprise because it is the hub of the criminal database.

5.3.2.7 The Challenges experienced in the implementation of the FCA

Participants indicated further that there are challenges that hamper the smooth implementation of the Firearm Control Act 60 of 2000. The challenges ranged from a need that the courts should take stricter action, problems with the implementation of the Act and suggestions on what should be done to enhance the FCA's effectiveness.

i) Courts to take stricter action

Whenever a person is convicted of a violent or firearm-related offence, it is the duty of the court that sanctions him to make a ruling on his fitness to possess a firearm. Participants were of the opinion that the courts are letting the justice cluster down by not declaring firearm perpetrators unfit to possess firearms in terms of Section 103 of the Firearms Control Act 60 of 2000. They believed it is duplication of tasks for a suspect/ respondent who appeared in front of a magistrate to appear again for an unfitness enquiry on the same facts that could have been dealt with by the court. An obviously frustrated police official pointed out that *“you know here is the question of us as DFO and the courts. In most instances that I have seen, a person will be convicted of a crime in court and nothing is said about the firearm. The problem is that the courts feel it is too much for them to declare people unfit. They should know that section 103 is their responsibility. It is more of us and them here. In the past we used to have Justice Cluster meetings where we met the courts and Correctional Services and we used to advise each other on this”*.

ii) Implementation challenges

Notwithstanding the inherent merit of any act, if implementation is not effective, that Act is not even worth the paper it is written on. Participants pointed to the need for effective implementation of the FCA, more robust safe inspections, timeous follow ups on deceased's firearms and progressive application of the unfitness declaration. The following on their list was a need to better resource the firearm environment. Participants indicated that the firearm duties are being performed on an *ad hoc* basis at some police stations, with the DFOs also utilized for multiple crime prevention

and support-related functions. Participants also highlighted a need for a standard procedure for firearm-related operation that can be implemented nationally.

Non-police participants raised a number of challenges that hamper the effectiveness of the FCA. On top of their list corrupt police officials appear; followed by the ineffective justice system where firearm transgressors are arrested and released with ease; the legislation cannot control human behaviour; the inability of the police to protect the identity of their informers and the lack of trust in the police in general by the community which results in the community fearing to surrender excess and redundant firearms.

Non-police participants made further suggestions on what may be done to address firearm challenges. They felt that there is a need to educate the community on the FCA; there should be an accredited association to ensure compliance and responsible firearm ownership; safe checks need to be strengthened; all firearm databases should be linked to the police; alcohol abusers should be excluded from firearm ownership; secure safes should be introduced; the SAPS inefficiency must be addressed and roadblocks and searches at taxi ranks should be intensified.

Both groups of participants were not satisfied with the Department of Justice, with police participants citing failure of the courts to apply Section 103 of the FCA thereby constituting a duplication of tasks for them. The non-police participants were concerned about firearm transgressors who go unpunished or who receive light sanctions. Non-police participants further pointed to corrupt police officials whose actions have resulted in broken trust between the police and the broader community. The police, on the other hand, indicated that some of the changes initially introduced to address the backlog later became permanent procedures, like doing away with safe inspection, which in turn hampers a key firearm control measure. This is how some of the DFOs summed up the challenge, *“the system did away with safe inspection to fast track the process and most firearm owners don’t bother buying gun safes or bolting them according to the firearm regulations because the DFOs don’t inspect them*

anymore.” Another concern involves the multi-tasking of DFOs with generic crime prevention and other support- related duties.

5.3.2.8 Different approach to Firearm Policing

With all that have been said, what needs to be done now? One of the key research questions in this study is to seek to identify and address the gaps or discrepancies in the enforcement of firearm legislation.

The police participants were equally engaged in the subject, with the majority of them believing that there is a need for proper training and education on the FCA and also the introduction of a paperless system that will prevent the loss of documents. Other inputs relate to the outsourcing of the CFR administration, especially the archives; to cut out the Provincial Office in the firearm process to avoid delays and loss of documents; to reinstate and capacitate the FRCs; to engage the community more in the policing of firearms; to refocus firearm-related operations and make it all police officials’ duty to enforce the FCA.

Non-police participants suggested that there should be a national review of who should have firearms, the public should be educated on the disposal process of estate firearms, the frequency of roadblocks should be stepped up , the tracing unit reinstated and stricter supervision should be applied in the application process.

Both police and non-police participants gave their views and interestingly both groups emphasised that there is a need to have police officials properly trained in the FCA; a need for continuous awareness campaigns; the refocusing of police operations to deal decisively in transgressions involving firearms; to revise the policy or criteria on who should have which firearm and to preclude alcohol abusers, since they are the main contributors of firearm- related incidents. They also expressed a need for stricter supervision of the application process, especially re-applications and the final application consideration section; the reinstatement of the FRC and the firearm tracing unit. One police participant remarked, *“I should think that the disbandment of the FRC*

(Firearm Registration Centre) was a step backward. They should be reinstated and members be tasked to work specifically on firearms. There should be people (members) working specifically with firearms like we got people (members) dealing with vehicles (vehicle theft unit)”.

Participants suggested that the firearm units should be revived and brought back with sufficient training and education, with the non-police participants specifying a need to educate the community in the disposal process of obsolete, surplus, redundant and estate firearms. Other areas of common interest include roadblocks which non-police participants wanted to be increased in number and the police participants requested that they be refocused. Administratively, non-police participants called for a review on the policy that determines who could own a firearm and appealed for stricter supervision on firearm applications to prevent losses and the recurrence of a backlog. Police respondents’ concerns seem to stem from the previous backlog in that they called for a paperless system, the outsourcing of the administration of the Central Firearm Register, especially the archives section and the involvement of all police officials in the policing of firearms.

Other inputs from the different camps include, *inter alia*, the police participants suggesting a paperless firearm application system; the outsourcing of some CFR administrative duties like the archives; streamlining the firearm application process and cutting out levels like the Provincial office; making the accredited service providers and institutions more accountable; the regular rotation of personnel; and testing the vision eye sight of firearm applicants. One of the DFOs was very blunt when he said *“the firearm process is too simple. As long as you got a safe and is a South African citizen, you get a firearm even if you are short sighted and cannot see properly, you just get a firearm”*. The following table summarises the feedback from both participants.

Table 5.2 Tabular view on different approaches to Firearm Policing

Police participants	Common responses	Non-police participants
Paperless application system	Police to be properly trained in the FCA	Educate public on FCA
Outsourcing of CFR duties, especially archives	Continuous awareness campaigns	Link all firearm databases (dealers, gunsmiths) with police database
Streamline firearm process and cut out Provinces	Re-focusing police operations dealing with firearms	Preclude alcohol abusers from firearm ownership
Tighten rules governing firearm training providers and dealers	Re-define at-risk individuals to determine who must have which firearm	Intensify safe inspections
Rotation of personnel handling firearms to prevent fraud and corruption	Improve firearm administration	Search taxi ranks regularly for illegal firearms
Test the vision of firearm applicants	Reinstate FRCs and Firearms Tracing Units	Do away with corrupt officials in the system
Community involvement in firearm applications	More roadblocks to retrieve firearms	Block firearm licences of people misusing firearms

Source: Researcher's illustrated concept

The above table presents the opinions of both police and non-police participants and the middle column indicates common opinions from both participants. Non-police participants did not respond to the last two questions of the interview schedule because they do not deal with firearm applications and most of them do not actually understand the process.

5.5.2.9 Additional inputs for effective firearm policing

In addition to specific responses on what should be done differently, participants gave further inputs that could not be categorised under any heading, but are nevertheless significant to the study. Inputs were grouped in broad categories of administration, enforcement and community.

Most police participants believed an electronic application process will be a solution to the paper trail that often results in documents being lost and subsequent backlogs. *“I suggest that there should be an electronic system where the application are captured with a serial number at the station and attachments scanned...”* There is also a need for improved security around re-applications and the approval process of applications to minimise corruption and duplication of work. Participants were further of the opinion that there should be dedicated people who will update the firearm database on a daily basis to improve the overall data integrity.

The proper training of police officials emerged on top of the police participants' chart followed by thorough safe inspections and unannounced visits to firearm dealers, gunsmiths and individual firearms owners. Other inputs relate to the constant rotation of personnel and a systematic approach to dealers inspections to make a positive impact on the firearm environment.

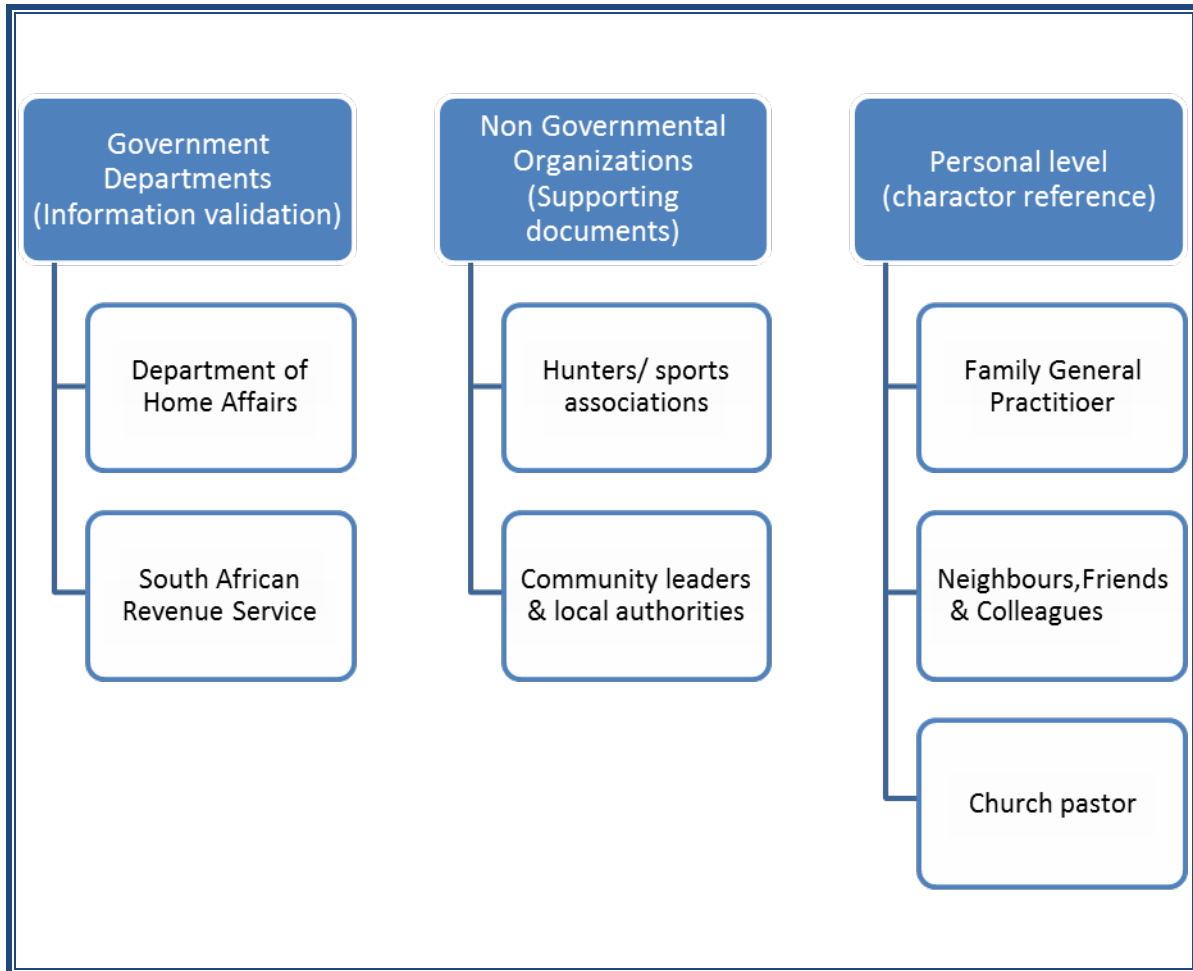
Police participants believed communities have a critical role to play in the firearm administration. Most participants were of the opinion that notifying the community of the unfit declaration statistics will stimulate their active participation and cooperation with the police. They also believed that the community can play a meaningful role in the screening of firearm applicants, since they are the environment from which the firearm applicant hails. According to the participants, there is also a need to provide feedback to the victims of firearm transgressions, not only to bring closure to them but also that justice must be seen to be done to bolster public confidence.

The police often encourage the community to get involved in policing, hence the question on their role in the firearm application process. A third of the non-police participants believed that spouses and family, neighbours and friends should be engaged before a final decision is taken regarding a firearm licence, followed by those who wanted a family medical doctor to be interviewed. Third on the list was the opinion that colleagues as well as church pastors should have a say in the firearm application process. Fewer participants indicated that they did not believe that the community should get involved, nor community leaders or authorities at Home Affairs or SARS, as well as NGOs and business people.

In a democratic dispensation we talk of policing the community with the community, hence the concept community policing. This question was posed to non-police participants to get their uncontested views on how they would like firearms to be policed. The majority of the participants believed that neighbours and friends are the first group of people to be consulted when a firearm application is considered. Just under half preferred a colleague and local pastor to be involved. A quarter mentioned with the family General Practitioner, whilst the remaining few listed community leaders and authorities, the Department of Home Affairs and SARS, NGOS and business people. Very few indicated that they did not believe the community should be involved. The table below depicts the participants' opinions on community involvement in the application process.

In South Africa, the National Crime Prevention Strategy (1996) is clear on the need and importance of partnership policing in crime prevention, because the involvement of the community will augment the knowledge, skills and resources that the police need for effective and efficient crime prevention. This explains the feedback received in this study that there is a need to involve the community and other external role players in policing firearms.

Figure 5.6 Role-players in screening firearm applicants



Source: Researcher's illustrated concept

In addition to the usual references, participants as indicated in the above table, mentioned a number of role players that should be involved in the application process to minimise the possibility of issuing firearms to at-risk individuals.

5.4. Conclusion

This chapter dealt with the findings compiled from interviews held with police participants and non-police participants which included a firearm researcher, a dedicated hunter and an attorney, all specialists in their own rights in the firearm environment. Interviewed police officials are mostly Designated Firearm Officers who

deal with firearms on a daily basis and crime prevention members who enforce the FCA out in the streets through roadblocks and other police-related operations.

The findings in this study suggest that the participants were of the opinion that firearms are used in the commission of most violent crimes in the country and there is a need to improve control over them. It further emerged that the Firearms Control Act 60 of 2000 contains some loopholes and need to be tightened up. It became evident that the South African Police Service is responsible for the ultimate prevention of crime through proactive and reactive activities that lead to crime prevention through deterrence. Police are the custodians of the RCA and therefore proactively decide who gets a firearm and reactively police those issued with firearms through compliance inspections and operational actions such as roadblocks.

A detailed data interpretation of the empirical findings, supported by literature correlates will be presented in the next chapter.

CHAPTER 6

INTERPRETATION OF THE FINDINGS

6.1. Introduction

In this chapter the data collected through interviews from police participants and non-police participants, as well as an independent established researcher in the firearm environment (see table 5.1 above) will be interpreted. Data collected through interviews will be interpreted to show how the results of the analysis and conclusions reached relate to the literature and theory relevant to this research. The primary objective of this data interpretation will be to identify various international firearm policy models and subsequently benchmark best practices to determine what will best suit the South African situation. The chapter further deal with the meaning extracted from the research data and is aimed at linking the deliberate process of data analysis as well as conclusions and it involves a meaning-making process (Trafford & Lesham, 2008:128).

6.2. An interpretation of the themes

Broader headings that were used during data collection have been grouped into themes that will be presented in this section. Themes to be discussed relate to the legislation governing firearms in South Africa and the crime situation, the impact of firearm management on crime, the effectiveness of firearm legislation enforcement, and a different approach to firearm policing.

6.2.1. Firearm legislation and the crime situation

The fundamental role of government is to ensure the safety and security of its community by enacting legislation that will control all dangers that may cause physical, psychological and material harm. The purpose of firearm legislation in general is not whether gun control is good or bad, whether the law is fair or unfair to gun owners, or whether it will be effective or ineffective in reducing the harm caused by the misuse of firearms, but to effectively control and manage them (Brunet & Goode, 2006:18). The Firearms Act is a valid piece of legislation, because it possesses all three criteria

required for a criminal law, *inter alia*, gun control due to inherent danger posed by guns on public safety, regulation of guns as they are deemed dangerous products, and it is connected to prohibitions backed by penalties. This section will explicate the regulatory framework that governs and control firearms in South Africa.

The restrictive policy on guns in South Africa dates back to the 18th century when the British colonisers introduced a weapon skill as a requirement to own a firearm. Despite the strictness of the firearm process, more and more people managed to obtain firearm licences, some of which ended up in criminal hands, as a result of thefts and being lost. The resulting abundant availability of firearms and the weak Criminal Justice System fuelled the violent behaviour in South Africa (Schonteisch & Louw, 2001).

The majority of offences, like offences relating to firearms, are regulated by statutes, which are Acts of Parliament (English & Card, 2007:2). Brunet and Goode (2006) indicate that the Firearms Act is inter-twined to the criminal law and it is directed to enhance public safety by controlling access to firearms through prohibition and penalties. They also believe that the primary purpose of the Firearm Act is to deter misuse of firearms and to control those given lawful access to firearms and access to certain kinds of weapons. Pelsler and Louw (2002:1) believe that it is important to close the gap between policy and practice which is believed to be attributing to the failure of most legislation. Proper control will prevent firearms from getting into the wrong hands and stiff penalties are likely to deter firearm owners from misusing them.

In South Africa firearms are controlled by the Firearms Control Act 60 of 2000 which was enacted with the purpose of reducing firearm crime and violent crime. In relation to the Constitution of the Republic of South Africa, the Firearms Control Act 60 of 2000 was enacted to protect the constitutional rights to life and bodily integrity, improve control over legally possessed firearms in order to prevent crime involving the use of firearms, establish a comprehensive and effective system of firearm control and management, and to ensure efficient monitoring and enforcement of legislation pertaining to the control of firearms (see paragraph 2.4 above for more details).

The restrictive nature of the Firearms Control Act 60 of 2000 does not guarantee the right to possess a firearm. It restricts certain categories of people from possessing firearms. The excluded category includes people with criminal records, mentally unstable people, individuals prone to violence and drug and alcohol addicts (also see paragraph 3.3.5.5). Background checks to establish all of the above, as well as proficiency certificates that certify that the firearm applicant understands firearm safety and the legal framework governing firearms are the cornerstone of the Firearms Control Act 60 of 2000.

The Firearm Control Act 60 of 2000 was enacted in line with international and regional firearm frameworks, as contained in paragraphs 2.2, 2.3 and 3.4 above; with the primary purpose of improving control over firearms. There is, however, a general belief that there are still too many firearms in circulation which result in misuse thereof, despite the enactment of the FCA. The lapse in control over firearms is further believed to contribute to the proliferation and abuse of those firearms. Research findings however, indicate that the enactment of the Firearms Control Act 60 of 2000 reduced the number of firearm-related incidents and the general perception of violent crime is that there are fewer firearms in circulation in comparison to other instruments of crime like knives and pangas. Respondents however, believed that there is a need to constantly tighten firearm legislation to ensure that loopholes are detected and closed before they are exploited.

6.2.2 Firearm Management: Impact on crime

There is a perception that the presence of firearms exacerbates crime and turns ordinary crime into violent crime. This section seeks to establish the frequency of firearm usage in crime and to establish the impact that better management may have on the crime situation.

Research findings indicate that the Firearms Control Act 60 of 2000 does regulate firearms sufficiently in South Africa, with a noticeable decline in violent crimes.

Regarding the involvement of firearms in crime, both police and non-police participants believed that firearms are used mostly in the commission of crime. The majority of police participants indicated that firearms are used rarely, followed by those who said mostly and in the third category those who viewed firearms as threatening tools in cases of vehicle theft. Most non-police participants believed firearms are used mostly and contrary to the police participants' view, they put rare usage in the second category. Police participants singled out vehicle-related crimes as crimes where firearms are mostly used, whilst non-police participants indicated farm and plot attacks. The remaining police participants were of the view that firearms are merely used as threatening tools during the commission of crimes such as domestic violence and a few non-police participants indicated that they had never encountered firearm-related crimes. Interestingly, the police believed firearms are used mostly in domestic violence, whilst non-police participants pointed to farm and plot attacks, as well as robberies in the urban areas (see figure 5.3 above).

It is significant to note that the majority of participants were of the opinion that effective firearm management can control firearms and reduce firearm-related incidents. This suggests that participants have confidence in the legal framework applicable to the firearm environment, as well as trust in the law enforcement agencies. Again it is significant to note the regular usage of the phrase "effective management can control firearms ...", which suggests that the current practice is not what it should be and participants seemed to be referring to the ideal in firearm management. It can be argued that the proper management of firearms will have an impact on firearm-related crimes and incidents if enforcement challenges are effectively addressed (see paragraph 2.5 for details on the subject).

In an environment in which individuals see themselves as having power and control over the dangers and fears they face, guns provide a means to reduce fear and to regain some defence against ever-present threats and enemies (May & Jarjoule, 2006:87). May and Jarjoule cited a survey by Wright, Rossie and Day, the 'fear and loathing hypothesis' which suggests that people buy guns in response to their fear of

crime and other incivilities present in their society. By implication, individuals, as a result of fear of crime and violence, go through a mental process where they deplore crime, criminals and the likes and then end up purchasing firearms for protection. Guns pose a credible threat, even in the hands of a weak and unskilled attacker (Robin, 1991:2). Robin indicates that they can be used to kill quickly without much effort and from a safe distance. Gamba (2000:29) also believes that firearms play an important role in violent crime in South Africa and reports that criminals use firearms as an instrument of force in attacks on their victims.

Gun control includes a range of legislative measures which place various restrictions on the acquisition, possession, use, sale and production of firearms. In New York State the court defined the level of state control over firearms in the case of *Hamilton v Accutec* as a practice where it is required of a person to produce a licence or permit to purchase a gun or ammunition. Such practice would include restrictions on multiple purchases of firearms, the enforcement of a waiting period on buyers and dealers reporting all sales to the police (Parnell, 2009:18). The ideal is to limit access to certain types of firearms or to preclude certain types of people from acquiring firearms (Robin, 1991:11). The Firearms Act is, according to Brunet and Goode (2006:18), a valid piece of legislation because it possesses all three criteria required for a criminal law, *inter alia*, gun control because of the inherent danger posed by guns on public safety; the regulation of guns as they are deemed dangerous products; and it is connected to prohibition backed by penalties.

It is widely believed that effective policing, as well as heavy sentences, has a deterrent role in reducing firearm-related violence and incidents (Wellford *et al.*, 2005:9). They believe that strict firearm policies generally do not affect the ability of law abiding citizens to keep guns for recreational or self-defence, whilst these policies have the potential to reduce gun violence by deterring violent offenders. Lott (2010:19) also believes that people commit fewer crimes if criminal penalties are more severe or more certain. The criminal justice intervention in the United States took the form of gun courts which target gun offenders for quicker and sometimes tougher processing than in

community courts.

In this study, both police and non-police participants believed that firearms are used mostly in the commission of crime. The majority of police participants indicated that firearms are used rarely, followed by those who said mostly and in the third category those who viewed the firearm as a threatening tool in cases of vehicle theft. Most non-police participants believed firearms are used mostly, and contrary to police participants' view, they put rare usage in the second category. Police participants singled out vehicle-related crimes as crimes where firearms are mostly used, whilst non-police participants mentioned farm and plot attacks. The remaining police participants were of the view that firearms are merely used as a threatening tool during the commission of crime, such as domestic violence and a few non-police participants indicated that they had never encountered firearm-related crimes. Interestingly, the police believed firearms are used mostly in domestic violence, whilst non-police participants pointed to farm and plot attacks, as well as robberies in the urban areas (see table 5.2 above).

Another significant aspect to note in the feedback is that the majority of participants were of the opinion that effective firearm management can control firearms and reduce firearm-related incidents. This suggests that participants have confidence in the legal framework applicable to the firearm environment, as well as trust in the law enforcement agencies. It is significant to note the regular usage of the phrase "effective management can control firearms ...", which further suggests that the current practice is not what it should be, and participants seemed to refer to the ideal in firearm management. It can be argued that the effective management of firearms will have an impact on firearm-related crimes and incidents if enforcement challenges are effectively addressed.

Both police and non-police participants were of the view that the firearm environment should be better managed. Administratively, both groups agreed on improved firearm administration with non-police participants appealing for stricter criteria when deciding on who should have a firearm, whilst the police participants called for stricter measures

for firearm application consideration panels/ officers. Police participants further called for stiffer penalties for firearm owners who fail to renew their firearm licences, the automatic disqualification of firearm-related crime offenders and the linking of the police firearm system with the firearm dealers' and gunsmiths' systems for control purposes.

Operationally, both groups of participants were of the opinion that more police action will manage firearms better. Non-Police participants specifically called for more roadblocks, as well as cordons and searches at taxi ranks. Police participants further called for the introduction of firearm tracking devices to improve the retrieval and recovery rate of lost and stolen firearms. Other areas highlighted in the feedback include a system-generated list of people who failed to renew their firearm licences and awareness campaigns to educate the community on the safe keeping of firearms (see table 5.3 above for more details).

The crime situation is believed to compel citizens to acquire guns, especially small arms for self-protection. A variety of reasons, for instance thefts and negligence, contribute to firearms landing in the hands of criminals who use them in the commission of crime. Firearms are regarded as weapons of choice in the commission of crime. This statement was echoed by respondents in this research where it is indicated that effective firearm management can control firearms and reduce firearm-related incidents. Parnell (2009:18) also indicates that gun control places various restrictions on the acquisition, possession, use, sale, or production of firearms and requires of the firearm purchaser to first produce a firearm licence before taking possession of a firearm or purchasing ammunition. Wellford *et al.* believe that effective policing, coupled with heavy penalties from the judiciary system, will play a deterrent role in reducing violent incidents.

The research results confirm the literature which indicates that firearms are indeed involved in the commission of crime as a threatening tool or instrument for the actual commission of crime. It was further indicated that firearms are weapons of choice because of its accuracy and its ability to cause harm from a distance. Common crimes

where firearms are used include, but are not limited to armed robberies, vehicle thefts, hi-jacking, house robberies, farm/plot attacks and business robberies. In addition, feedback from this study, which is supported by the literature, indicates that better firearm management can reduce firearm-related incidents (see paragraph 5.3.1.1 above and figure 5.1).

6.2.3 Firearm legislation enforcement

The Minister of Police, Mr Nathi Mthethwa and the former chairperson of the Portfolio Committee on Police, Ms. Cindy Chikunga, indicated during the annual report on the 2010/ 2011 crime statistics that the police are responsible to ensure that people of South Africa are and feel safe. Firearm legislation, just like any other laws of the country, is meant to direct and give guidelines on what needs to happen regarding the management of firearms, how it should happen and should stipulate punitive measures related to noncompliance or deviation thereof. Without proper enforcement, firearm legislation is not worth the paper it is written on. It is indicated that effective enforcement of the Firearms Act can prevent, rather than deal with the aftermath of the firearm-related incidents. The enforcement starts with the firearm legislation clearly indicating who at risk individuals are, the proper legislation regulating dealership in firearms, firearm administrators effectively enforcing the Firearm Act and sifting out at-risk individuals, as well as the effective policing of firearms in circulation.

Once again participants' views were invited on the above statement and they mostly responded in the affirmative. More than three quarters of the participants believed that the FCA provides answers to firearm-related transgressions. They referred to Section 120 of the FCA where offences are listed and believed the Act is comprehensive on paper and gives proper guidance to law enforcers. Those who believed the FCA does not answer firearm-related transgressions, raised the lack of guidelines for operations and the low level of knowledge of the FCA among police officials as their reasons.

Proper registration, the licensing of firearms and effective policing thereof are among the key control measures that can help the police to prevent and detect crime, as well

as to apprehend suspects. The court ruled in the urgent case of AfriForum regarding the accreditation of firearm service providers that the current accreditation process contained in the Firearms Control Act 60 of 2000 accredits the environment sufficiently (Legal brief Today, 2013). This follows the request by the SA Police that all service providers in the firearms industry should apply for accreditation with SA Professional Firearms Trainer Council (SAPFTC) before the 1st of November 2013. AfriForum took the matter to court on the grounds that the board members of SAPFTC are service providers themselves, which by implication means that they will be able to manipulatively regulate their business competitors to their own advantage (Legal brief Today, 2013).

One of the most important steps to take in the prevention of firearm-related incidents is to keep police officers at their posts in the neighbourhood and communities (Congressional Digest, 2013). This crime prevention process will enable police to arrest people carrying unregistered firearms as a result of strict stipulations in the act that require every person who carries a firearm to be in possession of a valid firearm licence. The detection and apprehension of suspects will prevent and combat crime, as illegal firearms found in possession of a person may be a proceed of burglary, theft, armed robbery, or any violence-related activity which may be tracked down to the scene of crime in the case of arrest or discovery. The most important factor does not seem to be the passing of national legislation, but the vigour with which the legislation is enforced at state level (Murray, Cerqueira & Kahn, 2013:480). Squires (2000:189), however, has some reservations that need further investigation. He is of the view that it will be difficult to track back the sources of illegal firearms due to the fact that few weapons used in crime were traceable back to the sources.

The findings from this study indicate that the Firearms Control Act 60 of 2000 provides reasonable legislative provision for effective enforcement and control of firearms. The literature reviewed supports the above statement in that the legislative provision regulating registration of firearms and licensing thereof is adequate in South Africa. The 2013 court ruling in the case of Afriforum, wherein it was ruled that the current

accreditation process of the Firearms Control Act 60 of 2000 adequately accredits the firearm environment, also proves that the FCA does provide sufficient enforcement provisions. There is however, a need according to the feedback from this study, to regularly review the FCA and to align it with the criminal trends.

This study found that although it is universally accepted that the police have little to do with the people's desire to commit crime, it is generally accepted that they have a great deal to do towards reducing the opportunity for crime at the earliest convenient stage. This emphasises the fact that the police need to continuously research the effectiveness of their strategies and operations to counteract the sophisticated methods of committing crime. With regard to firearms, there is a dire need to constantly review processes and criteria used in the policing of firearms; a statement which is supported by this study.

6.2.4 Effectiveness of law enforcement

Effective law enforcement entails the ability of the law enforcers to impose the Firearms Control Act 60 of 2000 in a way that addresses the firearm proliferation and firearm-related incidents that affect people in South Africa. This section looks into the way in which the police implement the FCA in general and the impact of those initiatives in addressing firearm-related challenges.

From this study it appeared that both groups of participants agreed that the police are not doing well in the enforcement of the Firearms Control Act 60 of 2000. They pointed to the unfocused manner in which police conduct roadblocks which are supposed to serve as effective tools in curbing and disrupting movements of firearms. Administratively, the non-police participants indicated that the screening process of firearm applicants sufficiently sift out non-qualifying individuals, whilst police participants indicated that the board of enquiry deals decisively with firearm owners who contravene the FCA. Police participants further indicated that collaboration with the firearm association, as well as the public education on firearm-related matters helped to improve that situation. A few non-police participants however, did not believe that the

police are doing well. They pointed to the few corrupt police officials who are catalysts to the problem. They believed the revival of the firearm units will go a long way in safeguarding the environment and improving enforcement of the FCA.

Respondents further indicated that roadblocks, as well as stop- and-searches help to address firearm-related incidents. Non-police participants added improved administration and background checks among actions that improved police enforcement. Both groups of participants were in agreement that such actions are effective in addressing firearm challenges. Non-police participants however, mentioned a number of areas that still need attention to make the environment safer. They suggested that corrupt officials that are catalysts to the problem should be dealt with decisively; border control should be stepped up to minimise the influx of firearms into the country; and to have firearm- specific roadblocks. Police participants concurred with the non-police participants on unfocused roadblocks and added lack of intelligence on crime, as well as a need for a dedicated firearm tracing unit. The responses suggest that the police do not really check for firearms in their operations. They conduct generic searches and by luck may stumble across a firearm. Other responses suggest that the police do not have a standard way of communicating the unfitness declaration of people declared unfit to possess firearms, both internally and externally. For more information on triggers of poor firearm management and problems facing firearm policing, see figure 5.2 and paragraph 3.2 above.

Amnesty International (2005:16) believes that effective enforcement of the Domestic Violence Act through an unfitness declaration can be a success, if coupled with a robust firearm registration system. In situations where violation of the Domestic Violence Act necessitates confiscation of the perpetrator's firearm, there will be a need for an accurate record of licensed firearms in the perpetrator's name. Amnesty International cited an incident in New South Wales, Australia where the police had to act on restraining orders and continued to search the perpetrator's house where they confiscated five guns . Amnesty International indicates further that the police did not have knowledge of the sixth gun that the perpetrator used to kill six people, including

the victim who initially secured a restraining order. In the above scenario, a sensible argument would be that the police would have acted differently if they knew how many firearms were on the perpetrator's name.

The Firearms Control Act (FCA) 60 of 2000, just like any piece of legislation, serves no purpose if it is not effectively operationalized through proper enforcement. The first enforcement step starts with the licensing process where at-risk individuals are restricted from accessing firearms, and the second step would be where punitive measures are taken on legal firearm owners who violate the provision of the FCA and the third step relates to the actual policing of firearms to rid the country of illegal firearms. Feedback from this study also indicates that the FCA is a well-crafted piece of legislation that addresses firearm challenges in the country. It however revealed some dissatisfaction regarding the enforcement of the Firearms Control Act 60 of 2000, both administratively and operationally. Administratively, there are no proper processes to sift out at-risk individuals and firearms continue to reach people who pose safety risks to others. Operationally, there are no proper checks and balances to effectively monitor firearm transgressors among those already issued with firearm licences and no proper police actions to address illegal firearms in circulation. The study indicates further that law enforcers are not effective enough and they need further training in the FCA. Corrupt police officials should be dealt with decisively (see figure 5.1 above for more details on this).

6.2.5 Different approaches to firearm policing

The challenges and gaps identified in the firearm legislation, as well as the enforcement thereof calls for a different approach to firearm policing by seeking best practices from other countries. This section seeks to elevate firearm policing in South Africa to the international standard. Best practices from developed international countries, neighbouring SADC countries and the BRICS countries were benchmarked against South African legislation. The researcher embarked on an extensive literature review to garner rich information on the subject. This section is derived from the literature review which endeavoured to gather comprehensive information on the different approaches to

the policing of firearms and to engage critically with related work done in the field. This resulted in the creation of a foundation for the theoretical framework used in the data analysis to confirm the gap in knowledge (Trafford & Leshem, 2008:79).

6.2.5.1 International approaches to firearm policing

In the United States of America, the right to bear arms had been guaranteed by their Constitution until they were bombarded by a string of serious firearm-related incidents, like the Colorado mass shooting, after which the USA government called for stricter measures to regulate firearms. The restrictions that were introduced for firearm ownership include the following categories: people convicted of a crime and sanctioned for imprisonment for a period exceeding one year; fugitives from justice; drug users and addicts; persons with adjudicated mental defectives or committed to mental institutions; unauthorised immigrants and most non-immigrant visitors; persons dishonestly discharged from the armed forces; U.S citizenship renunciates; persons under court-order restraints related to harassing, stalking, or threatening an intimate partner or child of such intimate partner; and persons convicted of misdemeanours like domestic violence (see paragraph 3.3.1 above).

A further significant development in the USA entails the instant check system. Johnson *et al.* (2012:465), indicate that firearm purchases in the United States of America are controlled mainly by the National Instant Check System (NICS). Johnson *et al.* indicate further that the firearm purchaser fills in a form which carries a penalty of up to ten years if false information is provided, and then submits it to the firearm dealer with a photo ID. The dealer submits the purchaser's information to the NICS telephonically or online where the buyer is screened against the national database. If the buyer is approved, the dealer receives a purchase authorisation number which is endorsed on the application form to verify compliance. Buyers not approved by the system may request a written explanation and if necessary, supply additional or the latest information to correct any errors on the NICS database. Common mistakes on the NICS database include the non-capturing of overturned convictions by the appeal body. New measures have reportedly resulted in a drop in firearm-related incidents.

New Zealand passed legislation in 1983 which did away with the registration of sporting guns which comprise 97 percent of privately held guns (Mistry, Minnaar, Redpath, & Dhlamini,2002:55). They registered the remaining three percent of handguns, which led to the reduction of crime with registered firearms, but it led to an increase in crime with unregistered ones. They retracted their earlier decision and once again registered all firearms and introduced a renewal system in which the police posted letters to the firearm owner at the expiry of the licence, failure of which would lead to the cancellation of the licence after six months (see paragraph 3.3.1.1 above for more details on this). According to Mistry *et al.* (2002:55), that led to a drastic reduction of firearm-related crimes.

Great Britain is one of the most developed countries in the world, but they are also cautious with strict gun laws in respect of who possesses firearms and for what reasons. Britain is also reported to have reduced firearm-related incidents by tightening control over 'who must bear arms'. A person wishing to possess a firearm in Britain must, according to English and Card (2007:761), be 18 years or older, provide information of previous convictions other than minor traffic offences, as well as the names and addresses of two persons who have agreed to act as references to the chief officer of police in the area where he/she resides. It is important to note that immediate family members, serving police officials and firearm dealers cannot be used as referees. Referees must be residents of Great Britain and should have known the applicant for at least two years and be of good character. English and Card indicate further that information provided by the firearm applicant must be verified by each of the two referees through a signed statement. Once all is in place, the chief officer of police will satisfy himself that the applicant is fit, proper, not a prohibited person and then evaluate the reasons provided for the firearm to ascertain that the applicant does not, in all circumstances, pose a danger to the public safety and peace (English & Card, 2007:761).

Providing false information on the application form and failure to disclose previous convictions, no matter how trivial, may result in the refusal of the application. Further requirements include the fact that applicants obtain forms from local police or internet, complete them and submit them to the police in the area where the applicant resides. People with more than one address need to apply using the address where they will be storing the firearm and a fee is payable when the application is submitted and refunded if the application is refused. Applicants should submit four photographs that must also be endorsed by the referees as the applicant's current likeness, namely the way he/she looks at the time of the application. A separate motivation for the need of each firearm must be provided and access to storage facilities is a requirement. Such facilities must be inspected by a police official (see paragraph 3.3.1.1 for specific details).

Canada had a dysfunctional firearm registry system and invested billions of dollars to upgrade its data base and processes (Quigley, 2003:3). Just like New Zealand, Canada did not register rifles and shotguns and that led to a shift in crime to unlicensed firearms usage, as well as domestic homicides, suicides and accidents. Some of the processes include firearm registry online which facilitated the re-licensing of all firearms. In essence that led to the reduction of firearm incidents.

Australia introduced a total ban on military type rifles and shotguns to civilians, as well as the screening of firearm applicants, compulsory storage facilities, putting expensive prices on hunting weapons, a ban on self-loading weapons with detachable magazines holding more than five rounds, and strict criteria for proficiency certificates for semi-automatic firearms (Kirsten, 2008: 12)). The Australian Auditor-General commended the Australian government for successfully reducing the number of firearm incidents for the financial year 2003/4. Amnesty International (2005:17) reports that in 1990 the Australian Firearm Law was amended in an effort to reduce the use of guns in violent crime incidents . They introduced the following changes to their firearms act: the minimum age for gun ownership was set at 18 years, the applicant to have a clean

criminal record and be a fit and proper person, must undergo safety training and must provide genuine reasons for the need. The police were given the powers to take into account all relevant circumstances when deciding on a new or renewal firearm licence; people convicted of assault and domestic violence were banned from having gun licences for at least five years; people with pending domestic violence restraining orders against them are subjected to compulsory seizure of all their guns; all guns must be registered at the time of sale and when the licence is renewed. They further introduced a 28- day waiting period to buy a gun; the applicant to provide genuine reasons separately for each gun and there are restrictions on private gun sales. Gun sales will be streamlined only through a licensed dealer or the police and they introduced strict storage requirements (see paragraph 3.3.1.1 above). The 2004 report on the evaluation of the Australian Firearms Act indicated that there was a dramatic reduction in firearm-related deaths (Amnesty International, 2005:17).

International countries are generally in agreement that there is a need for effective control on firearms to address violent crimes. The USA, New Zealand, Great Britain, Canada and Australia had to tighten their firearm legislation to address violent crime. All these countries have firearm restrictions for people with criminal records, people addicted to drugs and perpetrators of domestic violence and they use screening/background checks to ascertain that. All countries above require sound separate motivations for each firearm and the safe storage facilities when applying for a firearm licence. Great Britain is the only country in the study that specified that immediate family, serving police officials and firearm dealers are excluded from the list of references. New Zealand introduced a renewal system where the police posted letters to the firearm owner at the expiry of the licence, failure of which may lead to the cancellation of the licence after six months. Canada and Great Britain have firearm applications on the internet and firearm applicants are allowed to apply online.

Due to the inconsistent manner in which different countries administrate domestic violence, countries like Canada, New Zealand, Turkey and South Africa draw up a wide range of relevant information when deciding on a gun licence to prevent at-risk groups

from accessing firearms. Here are a few examples: Canadian gun law requires the applicant's current or former spouse or partner to be notified before a licence is granted or renewed; New Zealand police have the power to seek the opinion of an applicant's current or past spouse, while in Turkey applicants are required to provide a medical certificate attesting to their mental stability (Amnesty International, 2005:16). In South Africa, section 9 (2) of the Firearms Control Act 60 of 2000 prohibits the issuing of a firearm licence to a person with a record of domestic violence. South Africa should learn from countries like Turkey with regard to medical certificates for mental stability of firearm applicants as indicated in paragraphs 2.4.5, 3.3.1.1 and 6.2.5.3.

6.2.5.2 Regional approaches to firearm policing

Many SADC countries share borders and unregulated firearms not only affect the country in crisis but also the neighbouring countries, thereby destabilising peace initiatives and fuelling violent crime in those countries. It is the mission of the SADC Firearm Protocol as indicated in paragraph 3.3.3 above, to harmonise legislation governing the control of firearm manufacturers, possession and usage and also to encourage the destruction of surpluses, redundant or obsolete firearms.

Wesson (1999:8), supported by Gould and Lamb (2004:25), reports that all firearm applicants in Botswana, including hunters, are subjected to strict gun control and they all contest for the 400 licences comprising of 200 rifles and 200 shotguns on an annual basis. They indicate that few exceptions are made for cattle farmers who can provide proof of a need to control predators. Gould and Lamb report further that firearm applicants are screened for a history of mental illness and criminal records and there is an age restriction of 18 years. The President of Botswana has the prerogative to appoint government representatives to serve on the 'Quota Board' that deals with imports and exports of arms and who assists the Police Commissioner in the administration of firearms where necessary (Wesson, 1999:6), (also see paragraph 3.3.4.1 above).

Firearms in Lesotho are regulated under the Internal Security (Arms and Ammunition) Act no. 17 of 1966. The Lesotho's Internal Security (Arms and Ammunition) Act no

17/1966 prohibits possession of firearms to people below 18 years, alcoholics, mentally disturbed people, people with violent criminal records and those who were sentenced to six or more years in jail (Gould & Lamb, 2004:65). Gould and Lamb state that before a firearm could be issued, the National Security Service should conduct a background check on the applicant. Lesotho, as indicated in paragraph 3.3.4.2 above, reportedly has fewer firearm-related incidents than South Africa, except for stock thefts.

The Swaziland licensing system is based on a tribal system that involves tribal authority (Nkiwane *et al.*, 1999:25). The firearm application process, according to Gould and Lamb (2004: 272), includes among others, the applicant visiting his/her home area to be interviewed by the local chief's council for character and general reputation verification. If the chief's council is satisfied with the applicant, the chief and the applicant complete official forms that are submitted to the relevant police station commander. The applicant's fingerprints are taken and then the official process for comments and decision follows. The process includes the local station commander, the regional administrator, the Director of Crimes at Police Headquarters, the Licensing Officer/Registrar of the Firearms Registry, and the Licensing Board. Gould and Lamb further indicate that the Licensing Board only meets when there are 200 applications to be processed (more details on this in paragraph 3.3.4.3 above).

The final approval of the application, according to Gould and Lamb (2004:272), entitles the applicant to get a Permit to Purchase for which the applicant must pay the amount of US\$ 7, 57 to receive a Certificate of Registration. After the station commander has inspected the applicant's place of residence or business for firearm safe inspection, the applicant will be issued with a Possession Licence, also at the cost of US\$ 7, 57 which then entitles the applicant to purchase a firearm from a registered firearms dealer.

The Swaziland Arms and Ammunition Act of 1964 does not require applicants to acquire competency certificates, a practice that is seen by many as a loophole that allows incompetent people to access firearms (Gould and Lamb, 2004:273). It is reported that there is generally a negative attitude towards the ownership of firearms by private

citizens. Gould and Lamb state that there were eight registered firearm dealers in 2003.

The Mozambique firearm application process entails a formal application to the assistant commissioner who processes it and forwards it to the minister for confirmation (Wesson, 1999:17). Wesson indicates that the ministerial approval function may not be delegated. Other requirements, as indicated in paragraph 3.3.4.4 above, include proof of Mozambique citizenship, a proper motivation letter for the need, as well as a recommendation by the employer as a proof of employment, since unemployed individuals do not qualify for firearm licences. Leão (2004:38) states that further requirements include a limit of 3 firearms per individual (self-defence and two for sporting/ hunting), two year renewals and handing in of the firearm to the police whenever the licensed owner dies. Declined applications are announced via mass media to discourage the community from acquiring firearms and approved ones are renewed every two years (Gould & Lamb, 2004:98). There is, according to Wesson (1999:18), a limit of 100 bullets that an individual may purchase and the police has the power to enquire about ammunition usage at any time (see more on this in paragraph 3.3.2.1 above).

Firearms in Zimbabwe are regulated by the Firearms Act of 1957, which makes provision for the screening of applicants who are 16 years or older for mental state, temperament and also stipulates the destruction of surplus and redundant firearms (Gould & Lamb, 2004:311). According to Nkiwane *et al.* (1999:8), Zimbabwe does not have an arms industry but rather produces ammunition for small arms, as well as mortar supplies, primarily for military purposes and to a lesser extent to the general public (see paragraph 3.3.4.5 above).

Firearms in Namibia are regulated by the Arms and Ammunition Act of 1996, which has many similarities with the Arms and Ammunition Act, 75 of 1969 of South Africa. The Arms and Ammunition Act 7 of 1996 was enacted to exercise control over a confusing licensing system in that country prior to independence. According to Wesson (1999:8),

in the 1950s magistrates were responsible for the issuing of firearm licences and later it was done by South Africa till 1980 when the South West African police took over and finally the Namibian police in 1990. Wesson (1999:9) indicates that the Namibian Arms and Ammunition Act of 1996 requires that the firearm applicant must be 18 years or older to apply, must not have been declared unfit to possess a firearm by the Namibian Police Force, must not have committed a violent crime or an act relating to an inclination towards violence, not be dependent on drugs or alcohol and should be mentally fit and stable to make sound judgments. There is, according to Gould and Lamb (2004:99), no firearm licence renewal system in Namibia (more details on this in paragraph 3.3.4.6).

Countries in the Southern African Development Community (SADC) are signatories to the SADC Firearm Protocol and have all committed themselves to harmonise their firearm legislation to effectively police firearm manufacturers, possession thereof, as well as the usage of such firearms. All SADC countries in the study subject their firearm applicants to screening/ background checks and prohibit firearm possession for people with criminal records, people with a history of mental illness and alcoholics/ drug addicts (see paragraph 2.3 and 3.3.3 above). Swaziland employs a further requirement of safe storage facilities which must be inspected by the police. In Mozambique the firearm legislation makes it compulsory for the handing in of the deceased's firearm at the police station in cases where the licence holder has died. They further announce rejections of firearm applications publicly in the mass media to discourage the public from applying for firearm licences (also see table 3.1 above on the subject). South Africa experiences a challenge with estate firearms and should learn from Swaziland's handling of estates firearms and adjust the FCA accordingly.

6.2.5.3. Approach of BRICS countries to firearms policing

The researcher's interest in benchmarking against BRICS countries stems from the fact that these countries, just like South Africa, are fast developing countries. Development normally comes with challenges of criminality from people who associate development with obsolete rights and with unrealistic enrichment opportunities. Policing challenges

and approaches are likely to be similar in developing countries and they can benchmark their practices against the good practices of other member countries.

Brazil's firearm regulation is of a restrictive nature whereby the person seeking to buy a firearm must provide the licensing authority with evidence of good character and valid reasons for the firearm need (Alpers, 2011). The right to private gun ownership is not guaranteed and no civilian is allowed to possess an automatic firearm and/or imitation firearm. Semi-automatic assault weapons and handguns (pistols and revolvers) are permitted under a licence (Alpers, 2011).

Requirements to possess a firearm include, among others, the following: valid reasons supplied to the satisfaction of the National Arm Registry for the firearm need; applicant must be 25 years old or above; a favourable background check that considers criminal, mental and employment records; understanding of firearm safety and the law, which includes passing a test on theoretical and/or practical training course (see paragraph 3.3.5.1 above).

According to Alpers, 2011, it is not a requirement for a third party character reference, consideration of family violence history and the renewal interval is three years. It reports that there is no limit on the number of firearms and ammunition that can be possessed. However, there is a limit on the type and number of firearms that may be sold to an individual by a licensed firearm dealer. A licensed firearm dealer may sell a maximum of three firearms, of which one may be a handgun, a rifle and/ or a shotgun. Those entitled to buy those firearms are mostly retired military officials and non-commissioned officers. Regarding record keeping, Alpers (2011) reports that an official register is kept for all acquisitions, possessions and transfers of each privately held firearm. Licensed firearm dealers keep their own records of each firearm and/or ammunition purchase, sale or transfer on behalf of the regulating authority and state agencies must maintain records of storage and movement of all firearms and ammunition under their control. Carriage of firearms may be in plain view of the public or hidden (Alpers, 2011). Private guns are prohibited in sports arenas, churches, government buildings and schools. The maximum

penalty for illicit possession of firearms is between 1 and 3 years prison sentence and a fine. Surrendered, confiscated and seized firearms are disposed of through destruction.

The requirements for owning a firearm in Russia, as indicated in paragraph 3.3.5.2 above include, among others, genuine reasons for the firearm need, for example, hunting, target shooting, personal protection or security; the minimum age limit is 18 years; applicant needs to get positive feedback on background checks which consider criminal, mental and medical records; understanding of firearm safety and the law tested in a theoretical and/ or practical training course. Roman (1999:3) adds an additional requirement of a permanent home address for the applicant. A renewal process through re-application where one needs to fulfil all the above requirements to qualify, is conducted every five years (Alpers, 2011). Roman (1999:3) indicates that the process of registering firearms includes test firing of each firearm at a soft target, after which a sample bullet and cartridge are taken and registered against the applicant's name. With regard to storage and transportation, all firearms must be stored unloaded with ammunition stored separately, no firearm must be carried in plain view of the public, except by private security guards, hunters, and sport shooters.

Requirements for firearm ownership in India include specific reasons for such a need, for instance target shooting, personal protection, security, pest control or hunting; the age restriction is 21 years; applicant goes through background checks which consider criminal, mental and domestic violence records. No third party, spouse or relative character reference or interviews are done during the firearm application process. In case of any offence involving violence, a gun licence is denied or revoked. It is also not a requirement for theoretical knowledge of the firearms act or practical skills on firearm handling. Firearm owners are obliged to re-apply and re-qualify for their firearm licence every three years.

Civilians are allowed to possess a maximum of three firearms and 25 rounds of ammunition per purchase, with a maximum limit of 50 per annum. Records of firearm registration should be kept by firearm dealers in case of purchase, sale or transfer;

manufacturers must keep records for each firearm produced; state agencies have to maintain records of storage and movement for all firearms in their possession. No buyer can take possession of a firearm from a dealer without passing mandatory official background checks. Gun shows and temporary firearm dealings events are not regulated by law.

Firearm owners with permits may carry their firearms in full view of the public or hidden according to their preferences in India. Storage and transportation of guns and ammunition by firearm owners and state entities are regulated by firearm legislation. There is however, no specifications for safe storage of firearms by licensed arms dealers. A voluntary firearm surrendering scheme to reduce illicit firearms in circulation are conducted regularly and those firearms, together with surpluses and confiscated/seized firearms are disposed of through destruction. Those who fail to comply with firearm legislation, using either of the above processes face criminal prosecution with a maximum penalty of three years for illicit possession (also see paragraph 3.3.5.3 above).

In China firearms are controlled by the Law of the People's Republic of the China Control of Firearms, 1996. The right to a private firearm is not guaranteed in China and no civilian is allowed to carry a firearm for protection. Automatic weapons and semi-automatic assault weapons are prohibited, whilst handguns are permitted for hunting with permission only. The requirements to own a firearm include providing genuine reasons to possess a firearm, for example hunting, sports shooting, animal control; applicants must pass background checks which considers criminal, mental and domestic violence records; no past history of family violence; understanding of firearm safety and the law, both in a theoretical and/or practical training course. No third party character references are required.

Regarding sales and transfers, no private sale and transfer of a firearm is permitted in China. Only firearm dealers with valid gun dealers' licences are permitted to sell firearms in line with the special permit issued by the public security organs to the gun

owner. The Firearms Act regulates firearm storage and transportation thereof for private firearms and ammunition of gun owners, state entities, as well as in-transit. There are no written storage specifications for the licensed firearm dealers. Firearms may be carried openly in full view in public or concealed. There are no restrictions to that. Illegal possession of a firearm is punishable with a maximum prison sentence of 2 years (see paragraph 3.4.4 above). They report that surpluses, collected and seized firearms are disposed of through destruction (more details on this in paragraph 3.3.5.4).

Requirements for firearm licensing in South Africa include the following: the applicant must have a valid competency certificate; furnish genuine reasons to possess a firearm, for instance for hunting, target shooting, collection, personal protection or for security purposes; be 21 years or above, with some exceptions which may include the fact that the applicant conducts a business and needs that firearm for that purpose, applicant is gainfully employed, is a dedicated hunter/ sports person or private collector; positive background check which considers criminal, mental, medical, domestic violence, addiction and previous firearm licence records; third party character reference for each gun licence, which includes the spouse or a close family member; no past history of family violence; an understanding of firearm safety and the law tested in a theoretical and/ or practical training course for a firearm licence.

Other administrative information of importance for firearm licensing in South Africa includes a 5 year renewal interval for protection firearms and 10 years for other categories; a limit of 1 protection firearm per person, a maximum of 4 for occasional/ sporting firearms with a further limit of 400 cartridges and up to 2400 primers per firearm (Alpers, 2011). Record keeping for acquisition, possession and transfer of each privately held firearm is done by the Registrar, whilst licensed firearm dealers are required to keep record of each firearm or ammunition purchase, sale or transfer, on behalf of the regulatory authority. Firearm manufacturers are required to keep record of each firearm produced for inspection by the authority. State agencies maintain records of the storage and movement of all firearms and ammunition under their control.

There are specific firearms regulations that regulate the storage of firearms by private licensed gun owners, firearm dealers, state entities, and in-transit firearms, as well as ammunition in South Africa (Alpers,2011). The document indicates further that carriage of firearms may be in plain view of the public or concealed. There is no need for a carriage permit. Private guns are prohibited in educational institutions, churches, community centres, health facilities, taverns, banks, corporate buildings, government buildings and some public places such as sport stadiums (see paragraph 3.3.5.5 and 2.4 above for a detailed deliberation on this).

Feedback from this research indicates that the Firearms Control Act 60 of 2000 does regulate firearms reasonably, but needs to be improved. Respondents indicated that in addition to the firearm applicant's references that are currently interviewed, there is a need to also interview a family doctor, extract records from the Department of Home Affairs, as well as a church pastor or a colleague (see figure 5.5 above for further details). A concerned participant stated *"My opinion on that is that you can screen a person in so many ways. There is a very fine line between normal and abnormal. It is very difficult for the police to determine the psychological profile of anyone sitting in front of your desk. So I think it is a very difficult task and I do not believe that anyone can do that unless you are a qualified psychological expert"*.

Participants further indicated that the Firearms Control Act 60 of 2000 does not say much about estate firearms that often end up in the wrong hands due to lack of knowledge by the general public and no user-friendly systems to red flag such estate firearms.

Results from this research further indicate that there is a need to have automatic disqualifications for the firearm application process for people who failed to renew their firearm licences. Some respondents agreed with the statement, whilst others were against the idea and believed that South Africa already employs a restrictive firearm control system and that the automatic disqualification may be unconstitutional.

The age restrictions in the BRICS countries range from 18 to 25 years, with Russia at 18 and Brazil at 25, whilst the rest stipulate 21 years of age. All BRICS countries conduct background checks/ applicant screening for criminal records, mental stability, theoretical and practical knowledge of firearm legislation, as well as pending convictions and convictions on domestic violence related transgressions. In India firearm licences of perpetrators of violent crimes are revoked and India restricts firearm sales to firearm dealers only. Russia does not allow firearm owners to store their firearms while loaded. Interestingly, they also apply the IBIS testing where firearms are fired against soft targets and sample bullets are registered against the applicant's name (see table 3.2 above for more details on the subject).

There are cross-cutting practices among participating countries regarding firearm restrictions. Most countries, including the SADC and BRICS countries, do screen their firearm applicants for criminal records, mental stability and addiction to either alcohol or drugs. Internationally, Britain does not include immediate family members in the list of references, something that some participants in this study also had reservations on with regard to objectivity. In New Zealand letters are sent to firearm owners when their licences expire and Great Britain accepts online firearm applications. In Mozambique, firearm legislation makes it compulsory to surrender the firearm to the police station when the firearm owner dies, something that was also raised as a need by participants in this study regarding estate firearms. The table below gives a clearer view of similarities and differences in firearm policing:

Table 6.1: Overview of global policing approaches

Heading	SADC countries	BRICS countries	EUROPEAN countries
Requirement to own a firearm	<ul style="list-style-type: none"> - Minimum age of 16-21 years with Zimbabwe at 16 years and Swaziland at 21 years; - Genuine reason needed for each firearm application; 	<ul style="list-style-type: none"> - Minimum age of 18 to 25 years with Russia at 18 and Brazil at 25 years; - Genuine reason needed for each firearm application; 	<ul style="list-style-type: none"> Minimum age of 18 to 21 years; - Genuine reason needed for each firearm application; - Background check for

	<ul style="list-style-type: none"> - Background check for criminal, mental and employment records; - Family violence records not considered when a firearm application is considered except in Zimbabwe and Swaziland; - Understanding of theoretical and practical knowledge on firearm safety and law is a requirement in Botswana, Lesotho and Mozambique. Swaziland, Zimbabwe and Namibia do not require proficiency in that field: 	<ul style="list-style-type: none"> - Background check for criminal, mental and employment records; - Family violence records considered when firearm application is considered; - Understanding of theoretical and practical knowledge on firearm safety and law is a requirement except in India; - Russia additional requirement: test firing of firearm on soft target and registering sample bullet and cartridge on applicant's name. 	<ul style="list-style-type: none"> criminal, mental and employment records. USA uses the National Instant Check System (NICS); - false information on the application form carries a penalty of up to 10 years in the USA and automatic refusal of firearm license in Britain; - references should have known the applicant for at least 2 years in Britain; - Domestic violence perpetrators are restricted from applying for firearm licences in Australia. - Medical certificate attesting to the firearm applicant's mental stability.
Firearm storage	Access to a mounted safe	Access to a mounted safe. Additional requirement of separate storage for guns and ammunition in Russia	Access to mounted safe. Canada and Australia with additional requirement of separate storage for guns and ammunition
Firearm renewal	Ranges between 3 and 5 years intervals with Mozambique and Namibia not having renewal clause	Ranges between 3 and 5 years intervals. No renewal provisions in China	Ranges between 3 and 5 years with Australia posting letters to firearm owners whose licenses are about to expire. Failure to respond result in automatic cancellation

			after 6 months.
Disposal of surplus/collected and/or seized firearms	Firearm Destruction	Firearm Destruction	Firearm Destruction
Firearms related transgressions	<ul style="list-style-type: none"> - illicit possession - illicit manufacturing - illicit importation -having a private firearm at the sports arena, churches, government building and schools in Lesotho, Swaziland and Mozambique - failure to report loss or stolen firearm - usage of firearm in the commission of a crime 	<ul style="list-style-type: none"> - illicit possession - illicit manufacturing - illicit importation - having a private firearm at the sports arena, churches, government building and schools, especially in Brazil - failure to conceal a firearm – Russia - maximum 50 ammunition per annum in India - usage of firearm in the commission of a crime 	<ul style="list-style-type: none"> - illicit possession - illicit manufacturing - illicit importation -providing false information during firearm application - usage of firearm in the commission of a crime serves as an aggravation during sentencing

The table above indicates different firearm policing approaches in both international and regional countries that South Africa can learn from. Despite the amendments made to the restrictive system of the Firearms Control Act 60 of 2000, this study indicates that there is still a need to tighten it up to close possible loopholes. The study indicates further that there is a need for the SAPS to improve on the implementation of this piece of legislation, both administratively and operationally.

6.3. Conclusion

Firearms in South Africa are controlled by the Firearms Control Act 60 of 2000, hereafter called the FCA. Empirical research indicates that the FCA is reasonably effective in its current form but may be more effective with minor adjustments. The implementation part of the FCA is the area that is lacking, according to the empirical

research. Participants believed that the FCA has the potential to decrease violent crime if implemented correctly. Currently, law enforcers are reportedly not doing well in the implementation of the FCA. Inputs were gathered on what can be done to improve the effectiveness of the firearm legislation in South Africa. Best practices from both international, SADC and BRICS countries were tabled for consideration in the recommendation section that follows in the next chapter.

CHAPTER 7

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

This chapter outlines the recommendations proposed for gaps, shortcomings and weaknesses that were identified regarding the policing of firearms in South Africa. Based on the findings of this study, this chapter makes recommendations, gives a comprehensive proposal how firearms should be policed in South Africa and gives a conclusive view of the entire study. The recommendations are based on the understanding that proper firearm control and the policing thereof is the key tool in addressing violent crimes. The medical expression that prevention is better than cure is equally applicable to policing. In the policing context, the prevention of crime should precede the actual commission of crime. The greatness of this approach is that if prevention through proper firearm control succeeds, violent crime will not occur at its current rate. In addition, the chapter concludes the study, based on the results obtained in chapter 6 from the Gauteng participants and proposes a policing model for firearm policing which can be rolled out to the whole of South Africa.

7.2 Summary

The opening chapter of this thesis gave a general orientation to the whole thesis and opened with an introduction to the rationale for the research undertaken, namely, an analysis of the firearm control measures used by the South African Police Service (SAPS). The problem statement followed, after which the purpose and importance of this research were discussed. The value that this research endeavours to add was also discussed. The goals and objectives of the study were subsequently explained, that provided the main aims and reasons for the study, as well as a clear and unambiguous statement of the research objectives. The primary objectives of this study were to explore and describe the measures used by the SAPS in policing firearms in the jurisdiction of Gauteng Province, the response to and interpretation of interviews concerning policing of firearms conducted with police and non-police participants and literature published on the subject.

The secondary objectives of this study were to explore and describe:

- What does the policing of firearms entail?
- Does South Africa have effective legislation to police firearms?
- Is firearm legislation in South Africa effectively enforced?
- What are the gaps or discrepancies in the enforcement of firearm legislation?
- What are the consequences of the identified gaps or discrepancies?
- What are the international best practices on the policing of firearms?
- What can be done differently to improve the situation?

The delimitation of the study that addresses how the study was narrowed in scope followed, where key theoretical concepts central to the study were defined to provide a common understanding of their meaning in the field. Geographical and time limitations for discussion were tabled, and the problems encountered during the study were acknowledged. The research methodology then followed, which explained the exact steps taken to address the research problem, and consisted of the explorative characteristics of the study, the research approach and design, methods of data collection and analysis, methods to ensure validity and reliability, as well as the ethical consideration which concluded the chapter.

A legislative overview of the framework applicable in the policing of firearms in South Africa was supplied in the second chapter. Mandatory legislation regulating firearms was discussed. The following legislative framework was provided and analysed with regard to firearm policing: The Constitution of South Africa, the White Paper on Safety and Security (1998), the South African Police Act of 1995, the 1996 National Crime Prevention Strategy, the Strategic Plan for the South African Police Service 2010-2015, the Policing Priorities and Objectives, the SAPS Annual Performance Plan 2011/2012, the SAPS Firearm Strategy and the Firearms Control Act 60 of 2000.

Chapter 3 outlined a holistic literature review of existing publications which were consulted to present the knowledge base upon which the study was built. The viewpoints of a variety of authors that relate specifically to the key concepts, namely an

analysis of the impact of firearms control measures used by the South African Police Service in preventing crime, especially violent crime, were discussed to place the current study within a conceptual and theoretical perspective. Supporting statements from literature and an overview of the emergent themes were also given. Furthermore, a summary of international approaches to firearm policing followed by the South African Development Community and the BRICS countries closed the chapter.

The methodological approach which is the framework upon which this study is based was discussed and presented in much broader details in chapter 4. The chapter started by explaining the purpose of the study, followed by the objectives of the study, the research design and an overview of the research methods. The population and sampling of the study, followed by the data collection technique, data analysis and ethical consideration outlined

The route followed in this research. The challenges experienced during the study concluded chapter 4.

The analysis of the collected data was presented in chapter 5, with the aim of understanding various elements of data obtained through an analysis of the relationship between concepts, constructs and variables, to identify and isolate patterns and trends, as well as to establish themes and sub-categories that emerged in the data. The data collected were described and illustrated by means of interviews with police participants and non-police participants, as well as the interviews with experts in the field, who included a seasoned researcher in the environment, a dedicated hunter, a sportsperson, as well as an advocate. Research design and approaches were triangulated to ensure the richness of data.

Developed themes and sub-categories were discussed with independent researchers to support triangulation. An explanation of each theme was presented, enriched by a direct verbatim reflection of the responses. A critical reflection of the themes and their sub-categories rounded off each theme. The results of the interview schedules concluded the chapter, and were presented as tables and figures to indicate the respondents'

reactions towards the effectiveness of the SAPS in policing firearms in South Africa. In addition, background information on the respondents for contextualization purposes was provided.

The results of the analysis done in chapter 5 were interpreted and measured against the legislative framework and presented in chapter 6. The structure and layout of this chapter is based on the global, continental, BRICS and South African development of firearm legislation, as well as best practices in the policing of firearms. Broader discussion points of this chapter are: people's opinions and experiences of the Firearms Control Act (FCA) 60 of 2000; the impact of the FCA on firearm-related and violent crimes; how the FCA is being enforced, the effectiveness of FCA enforcement by law enforcers; the different approaches to firearm policing with specific focus on the approaches of the international, regional, and BRICS countries.

The above-mentioned discussions were supported by the inclusion of the approaches of other countries to firearm policing as presented in chapter 3, to emphasise the importance of firearm control in the prevention of crime. This chapter was concluded by interviews with police participants, ordinary non-police participants and experts in the firearm industry, including a seasoned firearm researcher, an executive from the dedicated hunter and sporting fraternity, as well as an independent attorney. Interviews were integrated with literature reviews to form a holistic interpretation of the findings. Lastly, the impact of each of the above themes was explained to round off the holistic findings of the interpretations.

7.3 Recommendations:

In his address, following the Sandy Hook Elementary School shooting tragedy, US President Barack Obama said "We won't be able to stop every violent act, but if there is even one thing that we can do to prevent any of this events, we have a deep obligation, all of us, to try" (Congressional Digest, 2013). In South Africa, there is a dire need to develop a firearm policing model to ensure that both the proactive and reactive activities are accurately enforced. This model will compel the police to realise the value of

controlling firearms and to reconsider their holistic role in preventing crime. In line with the firearm policing model proposed below, there should be a substantial investment in proactive crime prevention through firearm management, as these activities demand pricy resources. At the same time, there should be sufficient resources for reactive units to ensure compliance with firearm regulations once a firearm licence is issued. This will serve as a deterrent and inculcate the culture of responsible firearm ownership, as firearm owners will know that they face a high risk of losing their firearms if they do not comply with the firearm legislation. Essentially, this will ensure that legal firearms are not used for illegal activities and do not land in the wrong hands, eventually preventing firearm-related crimes. Based on the information provided in this study, it is evident that firearms are not policed effectively. To improve the situation, there are a number of pertinent issues on governance that the police leadership needs to address to foster effective control and management. These include the following:

7.3.1 Firearm Legislation reinforcement:

The purpose of firearm legislation in general is not whether gun control is good or bad, whether the law is fair or unfair to gun owners, or whether it will be effective or ineffective in reducing the harm caused by the misuse of firearms, but to effectively control and manage them (Brunet & Goode, 2006:18). The Firearms Act is a valid piece of legislation because it possesses all three criteria required for a criminal law, *inter alia*, gun control due to inherent danger posed by guns on public safety, regulation of guns as they are deemed dangerous products, and it is connected to prohibitions backed by penalties. With the passage of time, gaps and cracks became evident on the once tight Firearms Control Act 60 of 2000, and the following amendments are proposed:

7.3.1.1 Firearm licences renewal:

The following additional requirements to the current renewal system are recommended:

- Renewal notification: The SAPS, as the custodian of the FCA, should notify the firearm owner whose firearm licence is due to expire within a

period of three months by sending a system-generated application form, using registered mail and/ or by means of communication indicated by the applicant during the application process.

- Renewal application: Applicants should be allowed to apply online.
- Medical certificate: Applicant to present a medical certificate certifying his/ her mental stability and eye sight level.
- Safe inspection: To be conducted only if the applicant has changed residence.
- Termination of licences: Automatic cancellation of a firearm licence after a period of six months, upon failure to renew such firearm licence.
- Penalty for late renewal: A fine to the amount determined by the treasurer and a percentage of monthly interest, following late renewals of licences should be imposed.

7.3.1.2 Estate firearms:

- Amend the FCA to make it compulsory to surrender estate firearms to the police once the original firearm owner dies.
- Link the Central Firearm System with the system of the Department of Home Affairs, to enable the police to manage estate firearms.
- Police to send open letters to the families of the deceased, once it has been established that the licence holder has died.

7.3.1.3 Remove unnecessary barriers on background checks:

Background checks are done primarily to ensure that firearm licences are issued to fit and proper persons in an effort to protect women, children, the community at large and the firearm owner from harm. The following are recommended:

- **Divulge Information on medical condition of firearm applicants:** The police leadership, in consultation with the Department of Health, should remove the barrier that prohibit doctors from divulging information on their patients which may be detrimental to the safety of the firearm applicant, his/ her family and the broader community. Doctors and other mental

health professionals play an important role in protecting the safety of their patients and the broader community.

- **Impose stiff sanctions on Departments failing to share information** on lost/ stolen firearms, as well as unfit employees handling firearms within their departments. Departments should also be held liable for lost and stolen firearms in their care.

7.3.2 Firearm Legislation enforcement:

Firearm legislation, just like any other laws of the country, is meant to direct and give guidelines on what needs to happen with regard to possession and handling of firearms, how the above-mentioned should be managed and should stipulate punitive measures related to non-compliance or deviation thereof. Without proper enforcement, firearm legislation is not worth the paper it is written on. It is indicated that effective enforcement of the Firearms Act can prevent, rather than deal with the aftermath of firearm-related incidents. Pelser and Louw (2002:1) indicate that it is important to close the gap between policy and practice, which is believed to be attributing to the failure of most legislation. Proper control will prevent firearms from getting into the wrong hands and stiff penalties are likely to deter firearm owners from misusing them.

7.3.2.1 Firearm administrative process:

The enforcement starts with the firearm legislation clearly indicating who would be regarded as at -risk individuals and the proper regulating of dealerships in firearms by means of legislation. Firearm administrators should effectively enforce the Firearm Act and sift out at- risk individuals, and the effective policing of firearms in circulation should be facilitated by legislation. The following additional administrative processes are recommended:

- **Increase access:** Introduce an online firearm registration process, especially for renewal purposes. Countries like New Zealand, Canada and Great Britain employ firearm applications on the internet and firearm applicants are allowed to apply online. The online process is reported to

have reduced the processing time and is also convenient to firearm owners who are unable to access the firearm registration point. All firearm applications should be assessable to the general public online who may object to the issuing of a firearm licence.

- **Instant criminal background system:** The introduction of instant criminal background checks to look for the firearm applicant's criminal records at the application point would make the elimination of ineligible applicants faster. The South African Police Service uses a device called *Morpho Touch* to instantly check criminal records and track wanted suspects in operations like roadblocks. The same device can be modified and made available to Designated Firearm Officers for instant criminal background checks of firearm applicants, prior to the complete fingerprint process which should be done selectively, based on the outcome of the instant criminal check.

Firearm administration developments in USA involve a National Instant Criminal Background Check System (NICS), which requires the Attorney General to secure relevant government records that may render a person eligible to be issued with a firearm licence and feed it to FBI administered NICS, so that federally licensed gun dealers can process a background check on the system to determine a customer's eligibility to possess a firearm before processing with a transaction (Parnell, 2009:47). It is reported that such practice led to the reduction of firearms ending up in the hands of at-risk individuals and subsequently resulted in a reduction in firearm-related incidents.

- **Firearm system linking:** Firearm dealers, gunsmiths and training providers' systems should be linked to the Central Firearm system for monitoring and firearm management processes, like the mandatory returns on firearm acquisitions, sales and alterations to firearms.

- **Firearm dealers to sift out at- risk individuals:** Just like a liquor trader should have an obligation towards the well-being of liquor consumers, firearm dealers should also promote responsible firearm ownership. They should report suspicious looking customers to law enforcers. They should also report customers who buy excessive amounts of ammunition for closer monitoring.
- **Awareness on national responsible gun ownership:** Conduct annual awareness campaigns to encourage gun owners to take responsibility for safe- keeping and responsible usage of their guns. The campaign will educate firearm owners and the community at large on basic safety measures and their obligations in terms of the FCA.

7.3.2.2 **Dealing with fraud and corruption**

This study pointed to the few corrupt police officials in paragraphs 2.5 and 5.5.2.9 above who are catalysts to the ineffective FCA implementation problem, and need to be dealt with. The following strategies are recommended:

- **Fraud prevention plan:** Develop a risk management strategy, which should be accompanied by a fraud prevention plan, in compliance with the Public Service requirements. The National Treasury (2010:51) recognises fraud risk management as an integral part of strategic management. As highlighted by Gloeck and de Jager (2005:51), increasing deterrents such as warning signs, reference checks on employees and training can minimise occurrences of corrupt incidents.
- **Encourage whistleblowing:** To stimulate and encourage the culture of whistleblowing, employees should be assured of protection. In South Africa, whistle blowing is encouraged through the Protected Disclosure Act 26 of 2000. However, there appears to be an assumption that a person's

identity will have to be revealed when making a disclosure. According to Eaton and Akers (2007), without incentives, there seems to be little willingness or motivation for people to come forward and blow the whistle. Unless the whistle blower is protected, it is difficult for people to come forward.

In relation to whistleblowing as a tool in preventing corruption in the firearms environment, awareness of whistleblowing needs to be improved by regular information sessions to make employees aware of their rights and responsibilities in the event of reporting corruption. The CFR, through the Division Visible Policing should consider introducing incentives for successful outcomes of whistleblowing. Furthermore, it is imperative for the Division to improve the protection of whistle blowers, as this can encourage employees to blow the whistle on corruption, and help preventing it. Anonymous reporting of corruption needs to be promoted in the department to encourage those employees who may not want to report corrupt incidents for fear of workplace victimisation.

- **Regular risk management:** Police leadership should conduct regular risk management sessions. The continuous monitoring of processes and procedures will assist in identifying any changes in risks and ensure that internal controls continue to operate effectively (COSO, 2009). Failure to monitor risks could adversely affect the strategic objectives of the organisation. If risks are regularly monitored, the organisation should be able to react appropriately to the risk. For continuous monitoring, this performance should be included in management and supervisory activities.

7.3.2.3 Operational enforcement

The success of the FCA, just like any policy, is measured by how it is implemented (Pelser & Louw, 2002:1). Notwithstanding the inherent value of any

act, if the implementation thereof is not effective, that act is not even worth the paper it is written on. The South African Police Service is mandated by the Constitution of South Africa to enforce laws in South Africa. The success and failure of any legislation is partially dependent on them. In relation to the FCA, the following enforcement recommendations are made:

- **Establishment of a tracking team** to deal specifically with lost and stolen firearm cases, as well as tracking down estate firearms and firearms from non-renewed firearm licences.
- **Unannounced visits** to firearm dealers, gunsmiths and training providers in addition to mandatory annual inspections by the DFOs.
- **Disruptive firearm operations** at the taxi ranks, hostels and other violence- prone areas.

7.3.2.4 Enhance firearm tracing data:

Reactively, the police do conduct ballistic testing on firearms recovered at a crime scene or abandoned. This helps the police to trace the gun's path and its criminal activities. It is further suggested that:

- **Ballistic testing of new and transferred firearms:** All new and transferred firearms should be proactively ballistic tested and the results thereof be filed in the firearm applicant's records to facilitate the reactive ballistic testing process.
- **Renewal ballistic testing:** all renewal firearms should be ballistic tested to update data.
- **Introduce innovative gun safety technology:** The Central Firearm Registry, in conjunction with the Ballistic Section, should invent a tracking device that will be installed and piloted in all high calibre rifles, and be reviewed after 5 years, with the ideal of rolling it out to all firearms.

7.3.3 Impose stiff penalties for FCA transgressions

It is widely believed that effective policing, as well as heavy sentences, have a deterrent role in reducing firearm- related violence and incidents (Wellford *et al.*, 2005:9). They believe that strict firearm policies generally do not affect the ability of law abiding citizens to keep guns for recreational purposes or self-defence, whilst these policies have the potential to reduce gun violence by deterring violent offenders. Lott (2010:19) also believes that people commit fewer crimes if criminal penalties are more severe or more certain. The criminal justice intervention in the United States took the form of gun courts which target gun offenders for quicker and sometimes tougher processing in community courts.

7.3.3.1 Providing false information: There should be automatic refusal of a firearm application for giving false information during the firearm application process. A person who is not reliable cannot be entrusted with a firearm. In Great Britain, providing false information on the application form and failure to disclose previous convictions, no matter how trivial, will result in the refusal of the application.

7.3.3.2 Firearm usage to aggravate sanction: All cases in which a firearm was used should be sanctioned aggressively by the courts with the firearm serving as an aggravating circumstance.

7.3.3.3 Take steps to avoid returning guns to the wrong hands: Law enforcers should not be placed in the position of unknowingly returning guns to individuals who are prohibited from having them. There should be mechanisms in place to ascertain if the individual is still fit to retain the firearm. The following procedure should be followed:

- All dockets with firearms as exhibits that are presented to court should be endorsed by the courts on the fitness of the firearm owner in terms of Section 103 of the Firearm Control Act, 60 of 2000.
- All dockets with firearms as exhibits that are not presented to court, should

be closed in consultation with the local DFO and an endorsement be made in the docket regarding the disposal of the firearm.

- All firearms handed in at the police station without a case docket should be disposed of by the local DFO, after considering the merits on unfitness enquiry in terms of Section 102 of the Firearms Control Act, 60 of 2000.

7.4 A model for policing of firearms in South Africa

The researcher drafted a firearm policing model for South Africa, highlighting key role players, to ensure that all involved play their meaningful roles accordingly. The researcher is of the opinion that the SAPS, with the DFO taking the lead administratively and the operational members policing the firearms in the streets, are primary role players in this firearm policing model. It is, however important that there should be close co-operation between police officials, firearm dealers, firearm training providers, the firearm appeal board and the community, as they all have a role to play in the process of licensing and policing of firearms.

Table 7.1 Proposed Policing Model for South Africa

Administrative	<p>NEW FIREARM APPLICATION</p> <p><u>Step 1: Pre-application process / pre-requisites</u></p> <ul style="list-style-type: none"> • Minimum age of 21 years. • In possession of RSA bar coded ID book. • Proficiency certificate: Theoretical knowledge and practical skills in specific firearm handling. • Compelling reasons for the need of such firearm.
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Step 2: Application process

- Application to be submitted online or in person

APPLICATION PROCESS

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graph TD; A[APPLICATION PROCESS] --> B[Online firearm application]; A --> C[Firearm application in person];
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Online firearm application

- Create an online firearm account.
- Complete a system generated application form (NB indicate five people as references: two immediate family and three others).
- Make necessary payment online (credit card) or at the nearest bank.
- Take fingerprints at the local police station.
- Load certified copies of relevant documents.
- Submit application online to the local firearm office.
- Local firearm office acknowledges receipt and the receipt reflects on applicant's system.

Firearm application in person

- Obtain an application form on internet or at the nearest firearm office.
- Complete and submit with supporting documents (NB indicate five people as references: two immediate family and three others).
- DFO checks for criminal records of applicant using morpho touch.
- Make payment at the police station.
- Receive acknowledgement of receipt.

- Background check: DFO selects a minimum of three references from the list provided by the applicant.
- Local DFO conducts a safe inspection at the applicant's residence or where the firearm will be stored.

Operational	<p><u>Step 3: Enforcement stage</u></p> <ul style="list-style-type: none"> • Establish a dedicated firearm tracing team for all lost and stolen firearms as well as estate firearms to address firearm proliferation. • Random unannounced visits by uniformed police officials on firearm dealers, gunsmiths and firearm training providers in addition to the mandatory annual inspection. • Bi-annual random firearm inspection on individual firearm owners for compliance with firearm legislation. • Random unannounced visits by uniformed police on firearm collectors and dealers. • Non-compliance be dealt with according to the FCA.
Renewal	<p><u>Renewal process</u></p> <ul style="list-style-type: none"> • Intervals: Every five years. • Application forms: System generated application sent to the applicant's address. • Application process: Same as in step 2 above. • Additional background check: <ul style="list-style-type: none"> - medical certificate certifying the mental stability and acceptable eye sight of applicant - local police station for records of violent nature. • Safe inspection if address has changed. • Supporting documents in case of sporting and hunting. • Failure to renew subjected to licence cancellation after six months. • Non-compliers to be detected and their firearms confiscated.

Disposal	<p>Step 4: 360 degree firearm cycle/ disposal stage</p> <ul style="list-style-type: none"> • Obsolete, excess and redundant firearms surrendered to the state: Destruction. • Seized and confiscated firearms forfeited to the state: Destruction. • Defaced firearms: Surrendered to the state for a nominal fee determined by the treasury. • Any other firearm that the state declares to be unsafe for usage: Surrendered to the state for a nominal fee determined by the treasury.
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Source: Researcher s illustrated concept

The proposed model above covers the administrative aspects of firearm policing, starting with the application process, followed by the enforcement part of the legislation which entails compliance with firearm legislation and the actual police operations, including roadblocks, firearm tracing teams and the disposal of surrendered/ obsolete firearms.

7.5 Conclusion

This chapter summarises chapter 1 to 6, where after recommendations were made to address the obstacles debilitating the policing of firearms in South Africa. It became clear in this study that if the police can improve on the enforcement of the FCA, crimes involving firearms and violent crimes in general can be prevented and reduced. It is imperative that the SAPS management commit themselves to the recommendations made in this chapter to ensure that problems and administrative obstacles impeding the effectiveness of the FCA in policing firearms are addressed. This will in turn impact positively on the management of firearms and the subsequent reduction of firearm-related incidents in South Africa.

This study is important, as the obstacles in effective policing of firearms are identified and explored. This consequently indicates the existence of several areas of contradiction and breaches between policy and practice, as the emergent themes and sub-categories have indicated. Despite the massive effort put into the FCA, this data still present a disappointing picture of scepticism, since many practices at ground level do not reflect the intentions of the legislation, policies and directives. Although various directives on the FCA and its amendments have been implemented, it has emerged that the enforcement of the FCA has not been at the level it is supposed to be. Aspects such as the administrative flaws, as indicated in the findings, and the unfocused policing of firearms hamper the purpose and good intentions of the FCA. The table above indicates areas in the firearm policing that need to be improved to realise the full impact of the Firearms Control Act 60 of 2000 as a crime prevention tool.

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