

**THE IMPACT OF THE FIREARM CONTROL ACT 60/2000 IN
RESTRICTING GUN OWNERSHIP FOR AT RISK
INDIVIDUALS IN THE PRETORIA NORTH FIREARM
REGISTRATION CENTRE POLICING AREA**

BY

LESETJA SIMON BOPAPE

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UNISA (FLORIDA)

Supervisor: Professor Rika Snyman

Co-supervisor: Mr Gusha Ngantweni

Name: Lesetja Simon Bopape

Student no: 37698060

JUNE 2008

4 December 2008

I hereby declare that I have edited the masters dissertation “The impact of The Firearms Control Act 60 of 2000 in restricting firearms from at-risk individuals in the Pretoria North registration centre policing area”.

The onus remains on the author, Lesetja Simon Bopape, to make the changes suggested by me.

Marlette van der Merwe (BA (English), HDipLib (UCT))
Cell: 082 788 7404

DEDICATED TO:

My late brother Doctor Lesiba Elias Bopape, as well as my wife Riccah and three daughters Tertia, Marumo and Lebogang.

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Countless people have contributed to the success of this dissertation. Any attempt to acknowledge all those contributors completely and appropriately is bound to be incomplete. I do, however want to express my thanks and appreciation to all those who contributed to the development, creation, and refinement of this work.

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Lastly but most importantly, I would like to thank the Lord for giving me the courage to complete this study.

ABBREVIATIONS

APMC	Australian Police Minister's Council
Assault GBH	Assault with the intent to commit grievous bodily harm
BI	Business Intelligence
BMA	British Medical Association
CAS	Criminal Administration System
CCTV	Closed Circuit Television
CFCR	Central Firearms Control Register
COPRECAL	Committee for the Prevention of Small Arms and Light Weapons
DFO	Designated Firearm Officer
DVA	Domestic Violence Act 116 of 1998
FCA	Firearms Control Act 60 of 2000
FFLS	Federally Licenced Firearm Dealers
FFZ	Firearm Free Zone
FRC	Firearm Registration Centre
FRELIMO	Front for Liberation of Zimbabwe
GFZ	Gun Free Zone
GFSA	Gun Free South Africa
HSRC	Human Science Research Council
IFP	Inkatha Freedom Party
LCRC	Local Criminal Record Centre
NCPS	National Crime Prevention Strategy
NCVS	National Crime Victimization Survey
OAU	Organization of African Unity
RENAMO	Mozambique National Resistance
SADC	Southern African Development Community
SANDF	South African National Defence Force
SAPPCCO	Southern African Regional Police Chiefs Cooperation Organization
SAPS	South African Police Service
SDU	Self Defence Unit
SPU	Self Protection Unit
TBVC	former homelands of Transkei, Bophuthatswana, Venda and Ciskei
UN	United Nations
UK	United Kingdom
USA	United States of America
ZANU	Zimbabwe African National Union
ZANU-PF	Zimbabwe African National Union-Patriotic Front
ZAPU	Zimbabwe African People's Union
ZIPRA	Zimbabwe People's Revolutionary Army

A BRIEF RESUME OF RESEARCHER

The researcher matriculated in 1986 at Ditsepu High School, Polokwane and was appointed to the South African Police on 2 June 1987. He achieved his National Diploma: Police Administration from Technikon SA in 1995 and was appointed to the commissioned rank on 1 August 1997.

He became a senior officer on 1 August 2001. On 1 December 2001 he archived another National Diploma in Human Resource Management at Technikon SA and in 2004 he finalized his B-Tech Degree: Police Administration with Unisa.

The researcher is married with three children. He is a sportsman and regularly participates in gym and casual soccer. His success in life is as a result of a healthy balanced lifestyle.

ABSTRACT

The research project investigated the impact of the Firearms Control Act (FCA) 60 of 2000 in restricting gun ownership for at-risk individuals in the Pretoria North Firearm Registration Centre (FRC) policing area and identified prevention strategy as well as specific factors that contributed to this problem. Secondary prevention focuses on situational factors that reduces the means and opportunity for at-risk people to commit crime and can be applied in restricting firearms from at-risk individuals. One hundred and thirteen legal firearm owners in the Pretoria North FRC policing area responded to the questionnaire schedule. Data was also collected through interviews with Designated Firearm Officers (DFO) and court officials in that area. Specific factors have been identified that contribute to firearms landing in the hands of at-risk individuals in the Pretoria North FRC policing area. They are among others, poor administration of some sections of the FCA like background checks and section 102 and 103 unfitness declarations. The role of the DFO in continuous public education program on the FCA is also invaluable. The same goes to the general public s involvement in the identification of at-risk individuals. The South African Police Service management needs to address issues within the police service such as additional trained personnel, allocation of sufficient logistical resources like vehicles, computers and scanners to ensure effectiveness in restricting firearms from at-risk individuals. Several secondary role players have been identified that should work closely with the primary role players to address this problem. The recommendations drawn from conclusions as well as the inter-departmental role of all the different role players may assist in restricting firearms from at-risk individuals.

DITSOPOLWA

Dinyakisišo tše di nyakišišitše diphetogo tše di tlišwago ke molao wa dithunya e le go Firearms Control Act (FAC) 60/2000 go batho bao ba se go ba swanelwa go ba le dithunya tikologong ya Pretoria North. Dinyakisišo di tšwela pele go hlaola mekgwa yeo e ka šomišwago go thibela phetelo ya dithunya go batho ba bjalo. Mokgwa wo o hlaotšwego dithutong tše o tšwa legatong la bobedi la go thibela bosenyi. Wona o lekodišiša ditiragalo tše di hlohleletšago ke seemo le ka moo go ka fokotšwago menyetla ya batho bao ba sego ba swanelwa go ba le dithunya, go dira bosenyi ka tšona.

Beng dithunya ba lekgolo le metšo e lesome tharo go tswa tikologong ya Pretoria North FRC ba tšere karolo dinyakisišong tse. Tshedimošo e ngwe e hweditšwe gotšwa dipoledišanong le maphodisa ao a šomago ka dithunya e le go di DFO go la Pretoria North FRC le bašomi ba kgoro ya tshenko gona tikologong ya Pretoria North.

Dintlha tseo di ikgethilego di bontšhitšwe go ba tše di dirago gore dithunya di be matsogong a bao ba šitwago go di šomiša ka tshwanelo: Maemo a bolaodi ao a fokolago, a tsa taolo ya tshomiso ya dithunya, kudu maphodisa ao a nyakišišago maitshwara a motho yo a dirago kgopelo ya sethunya; baofisiri bao ba dirago di theetšo tsa beng dithunya bao ba tshetšego molao wa dithunya; le karolo ya di DFO lenaneong la go tšweletša pele dithuto tša mabapi le FCA setšhabeng.

Setšhaba sona se solwa ka go se botše maphodisa nnete mabapi le bakgopedi ba dithunya bao ba lego kotsing ya go šomiša dithunya bošaedi le go di timetsa.

Thlokego ya di dirišwa bjalo ka maphodisa ao a lekanego, dikoloi, dicomputara le di dirišwa tše dingwe tše di hlokegago go tšweletša mošomo wa go ngwadiša boradithunya le yona ke hloba boroko. Bathuši ba tlaleletšo ba hlaotšwe sengwalweng se, bao ba ka kgonago go thušana le maphodisa ao a hlaotšwego mošomo wa dithunya.

Dintlha tše di tšweletšego sengwalweng se le diphehong tše di tšerwego go tšwa dinyakisišong tše, di tla thuša go thibela phetelo ya dithunya matsogong a batho bao go lego kotsi gore ba sware dithunya.

STATEMENT OF AUTHENTICITY

I Lesetja Simon Bopape hereby declare that “The impact of the Firearms Control Act 60 of 2000 in restricting gun ownership for at-risk individuals in the Pretoria North Firearm Registration Centre policing area” is my own work and that all sources that I have used or quoted have been indicated and acknowledged by means of complete references.

STATEMENT BY THE EDITOR

4 December 2008

I hereby declare that I have edited the master's dissertation "The impact of The Firearms Control Act 60 of 2000 in restricting firearms from at-risk individuals in the Pretoria North registration centre policing area".

The onus remains on the author, Lesetja Simon Bopape, to make the changes suggested by me.

Marlette van der Merwe (BA (English), HDipLib (UCT))
Cell: 082 788 7404

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CHAPTER 1

GENERAL ORIENTATION

1.1 Introduction:

The former Minister of Safety and Security, Minister Sydney Mufamadi, indicated already in 1996 that South Africa requires the implementation of firmer measures regarding both the fight against illegal firearms, as well as the control over licensed arms, to reduce crime in South Africa (Meek, 2000:33). In 2000, the parliament of the Republic of South Africa passed the Firearms Control Act (FCA) in an effort to enhance the capacity of law enforcement agencies in controlling firearms and dealing with firearm-related violence. The Minister of Safety and Security, Charles Nqakula, indicated in his 2004 budget speech that guns have become the weapon of choice in the commission of violent crime in South Africa, and the Firearms Control Act of 2000 and the Firearms Control Amendment Act of 2003 are instruments that are designed to help the South African Police Service (SAPS) to prevent the proliferation of illegal firearms and to remove them from society. The Minister emphasised the FCA as measures that will allow the police to establish a comprehensive control system to effectively control legally owned firearms.

This study aims to look at the implementation of the FCA and how it restricts firearm ownership to at-risk individuals in the Pretoria North Firearm Registration Centre (FRC) Policing Area. The research will also be looking into the role played by the courts in restricting guns from risky individuals.

The chapter begins by introducing the problem statement of the study, also setting out the research aims and objectives and the methodology of this study. The value of the research, research approaches used and research design, the sampling, data collection and analysis follow thereafter. The chapter also deals with methods used to ensure the validity and reliability of this research. The ethical considerations, delimitation of the study, geographical delimitation and conceptual delimitation conclude this section.

1.2 The problem statement

South Africa is daily faced with crimes of violence where the use of firearms plays a central role (Minnaar, 1998:1). Unfortunately, crimes committed with firearms remain at their highest level because of the continuous influx of legal firearms into wrong hands. This study will seek to establish if the screening of applicants does in fact sift out at-risk individuals. Jacobs (2002:08) argues that the importance of guns in routine fights and robberies is that they intensify violence, increasing the likelihood of death. He went on to say that because guns increase the scope and lethality of violence, keeping them away from violent encounters is a vital public goal. Cook (2000:05) is of the opinion that gun-oriented policies aimed at effectively controlling firearms, may save lives even if assault and robbery rates stay at current levels.

The Firearms Control Act (FCA) 60 of 2000 was enacted to address the proliferation of firearms, which is believed to contribute significantly to violent crime in South Africa. This study investigates the effectiveness of the FCA in restricting firearms to at-risk individuals in the Pretoria North Firearm Registration Centre (FRC) policing area.

1.3 Research aims and objectives

The primary aim of this research will be to provide insight into the role played by the Firearms Control Act 60 of 2000 in restricting firearms to at-risk individuals.

i. Aims: To identify gaps in the application of the Firearms Control Act by the Pretoria North Firearm Registration Centre (FRC), that contribute to the issuing of firearms to at-risk individuals, in order to rectify or close those loopholes, to make sure that at-risk individuals are restricted from owning firearms.

ii. Objectives

1. To describe the legislative framework and processes in which the FCA is implemented.
2. To assess the effectiveness of the FCA in restricting at-risk individuals from gun ownership.
3. To identify gaps in the application of the FCA.
4. To make recommendations on aspects of the implementation of the Act that needs to be rectified and improved.

1.4 Methodology of the Study

This study is aimed at acquiring first-hand information from the FCA enforcers who have undergone the process of establishing and enforcing this Act. The purpose of this study, therefore, is to examine, explore, as well as establish whether the FCA indeed sifts out at-risk individuals from owning firearms. Consequently, it is implicit that the common purpose of this study is exploration, and therefore requires the research to have a qualitative approach because of the intricacy involved in the application of this Act and how it is applied to identify at-risk individuals. The adversities the officials encountered, the similarities and the procedure, will be comprehended and described.

Qualitative research is considered to be a warm approach to the central problem of the research, because it is concerned with the human part of the research, e.g. interpersonal relationships, personal values, meaning, belief, thoughts and feelings (Leedy, 1993:142). This section, dealing with the methodological coordination of the study, starts by disclosing the process undertaken to conduct the study, namely, the methods, to sample study participants and the manner of collecting data. This will be followed by the method in which the collected data was analysed. The method of ensuring reliability and validity will conclude this section.

1.5 Value of the Research

Research is defined by Welman and Kruger as the process in which scientific methods are used to expand knowledge in a particular study (Welman & Kruger, 2002:02). Research has one goal - discovering the truth. Its purpose is to learn what has never been known before. It endeavours to find answers through the medium of relevant facts and their interpretation (Leedy, 1993:41). The value of this research will be important to several stakeholders. Firstly it will help the researcher to specialise in this field of study which forms part of his daily duties. The Designated Firearms Officers (DFO) who are primarily responsible for administering the FCA, will also benefit from this research. New information acquired through this study will contribute to the knowledge, skills and attitude of other stakeholders who are involved in firearms.

The SAPS, like any big organisation, is a learning organisation that needs change and development to maintain international standards. Luthans (1998:44) believes that to become successful and gain a competitive advantage, organisations today and tomorrow need to become learning organisations. On organisational development, Luthans believes that such development leads to improved organisational performance, through improved decision making. He compares organisations that resist change to old wine poured into a new bottle to make it look good.

Finally, a dissertation will be made available to the Head: Central Firearm Control Register, and libraries, for academic reference by other scholars. This research adds value to the general public, because recommendations will be made to keep guns out of the hands of at-risk individuals. The study will also add to the academic body of knowledge.

1.6 Research approach

The researcher made use of both the qualitative and quantitative approach because there was a need to interview individuals (qualitative) and analyse statistics by analysing the dossiers / forms (quantitative). Qualitative research focuses on reliability of data that is being collected and its consistency and ability to replicate the findings (Leedy, 1993:144). With the quantitative approach the distance between a researcher and that which is being researched, is minimised. On the contrary, with the qualitative research approach there is a distance between the researcher and what is being researched (the respondents). Qualitative research is done in a relatively open and unstructured manner. That helped the researcher to be sensitive to unexpected events (Struwig & Stead, 2001:13).

Qualitative research is also inductive, where qualitative researchers develop their own understanding in the course of the research process, and do not collect data to confirm preconceived theories. It is also a critical research paradigm and has a human approach to the people being researched (Winberg, 1997:41). The research was holistic, and viewed people in their contexts where they were not reduced to variables.

1.6.1 Research Design

The research design of this research is presented in the form of a literature study, which involves current literature. Delpont (2005:159) describes research design as a plan, recipe or blueprint for the investigation, and as such provides guidelines according to which a selection can be made of which data collection method(s) will be most appropriate to the researcher's goal and to the selected design.

1.6.2 Sampling

The commanding officer of the Central Firearm Control Register (CFCR) and the Area Commissioner of Pretoria, where Pretoria North FRC resorts, were approached, and approval sought to conduct a study on the impact that the FCA is making in restricting firearm ownership to at-risk individuals. The sample involves ten officials from the Central Firearms Control Register, Gauteng Provincial Office, Pretoria North and Soshanguve courts, and two hundred randomly selected firearm applicants as recorded in Pretoria North Firearm Registration Centre's records, within Pretoria North FRC's policing area. The focus was also on senior officials who have first-hand information on the matter, and those who were involved in the enforcement of the FCA in the Pretoria North FRC area. Those people were selected on the basis of the position they hold, the experience they are having with the FCA, and their involvement with FCA implementation in that jurisdiction, the participants' length of service at their workplaces, and extent of their involvement in the implementation and enforcement of the FCA.

The method used to sample research participants is purposive sampling and it was engaged to select participants for the purpose of gaining first-hand information on the purpose and impact of the FCA in the demarcated area. According to Champion (1993:105), purposive sampling involves hand picking elements from some target population. Purposive sampling describes in detail how members of the public were identified to participate in the study. Sampling was found to be appropriate, because the unique case of introducing the new Firearms Control Act to replace the old Act needed specific responses rather than generalisation that does not go deep into specifics. The open-ended approaches to the questions were particularly valuable in this study, as rich details were captured better. There is a disadvantage to this approach, namely, the difficulty in categorising the responses. The purpose of the interviews was thus to describe

rather than to generalise (Maxfield & Babbie, 2005:273-214). On average, five people will be interviewed for each of the populations indicated above.

1.6.3 Data collection and analysis

There are different forms of data collection, of which observations, interviews, documents and audio-visuals are the four basic forms, in qualitative research. The research method which looks with intense accuracy at the phenomena of the moment and then describes precisely what the researcher sees, is called a descriptive survey (Leedy, 1993:185). Delpont (2005:166) indicates that the basic objective of a questionnaire is to obtain facts and opinions about a phenomenon from people who are informed on the particular issue. As with oil beneath the sea, data is sometimes buried deep within the minds or within the attitudes, feelings, or reactions of men and women, and needs a tool such as a questionnaire to retrieve it (Leedy, 1993:187). Structured interviews have some similarities with questionnaires. They all need to be carefully planned and be accurately worded (Leedy, 1993:192). Greeff quotes Sewell (2001:1) where he defines qualitative interviews as attempts to understand the world from participants' point of view, to unfold the meaning of people 's experiences, (and) to uncover their lived world prior to scientific explanations. The researcher has used personal/ individual interviews, and assessed data from documents that were collected from CFCR, Pretoria North FRC and the two courts. The responses to questionnaires and interviews were noted down, to provide a record of interviews for analyses. Tesch's eight step process to analyse the qualitative data was used to analyse that data. Frequency distribution was used to analyse data from firearm applications and section 102/3 enquiry files.

1.6.4 Methods ensuring validity and reliability

Reliability in qualitative research is synonymous with consistency (Struwig & Stead, 2001:133) and validity refers to trustworthiness and credibility in qualitative research. Leedy (1993:40) is of the opinion that validity is concerned with the soundness and the effectiveness of the measuring instrument, while reliability deals with accuracy. This is the degree in which the researcher relies on concepts, methods and inferences of studies (Struwig & Stead, 2001:148). To make sure that this study is valid and reliable, the researcher has used a qualitative approach in an exploratory

way. Random purposive sampling was used in the individual interviews. For the individual interviews, semi-structured interviews have been employed, where the same questions are asked and respondents are given a chance to voice their own opinions.

Other measures that the researcher has used to make sure that the study is valid and reliable is methods relating to triangulations, the checking of members and confirming that the chain of evidence is correct. Methodological triangulation is the use of three or more methods of data collection procedures within a single study (Leedy, 1993:143). Leedy explains further that data triangulation attempts to gather observation through the use of a variety of research strategies, to ensure that a research question is tested in more than one way. The member checking and representative checking approach was used. As indicated earlier, the researcher used the Tesch technique to analyse data which ensures that the data is broken up into manageable themes and patterns as it is the theory of categorisation for the analysis of the qualitative data (Tesch, 1990:142-145).

The researcher further interviewed different categories of people to test the reliability of their information. Role players ranged from law enforcers at the FRC who are responsible for safe inspection and background checks, the provincial office that handles renewals of firearms and oversees the Pretoria North FRC, and the national office that develops policies and monitors the implementation thereof nationally. People from different state departments, namely, the court officials, have also been interviewed. Finally, members of the public who are regarded as at-risk were also interviewed.

1.6.5 Ethical consideration

The fact that human beings are objects of the study in quantitative research, brings a unique problem which needs special ethical consideration. Strydom (2005:57) defines ethics as a set of moral principles which is suggested by an individual or groups and is subsequently widely accepted. The ethical code of conduct regarding research by Unisa was adhered to. The researcher also adhered to the ethical code of conduct as stipulated in sections 70 and 71 of the South African Police Service Amendment Act 83 of 1998. The researcher kept the identity of

participants anonymous and confidential by coding the interviews and the participants. The researcher made certain that the participants give their consent by making informed decisions, especially in the individual interviews where the interviews were recorded on a questionnaire. Audio cassettes were used at the request of the interviewees or if the need arose. The participants were informed that they could withdraw whenever they wanted to. Permission was granted for the researcher to conduct this study (see paragraph 1.6.2).

1.7 Delimitation of the study:

In order to eliminate any confusion and misunderstanding of any terms used in the study, it is imperative to explain the terms used. According to Leedy (1989:58), in every research endeavour researchers should 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.

1.7.1 Geographical delimitation

This research is based on the firearm situation in the Pretoria North FRC policing area. At the time of this study, Pretoria North FRC was serving the following police stations: Pretoria North SAPS; Pretoria Moot; Sinoville; Kameeldrift; Hammanskraal; Akasia; Rietgat; Soshanguve and Wonderboompoort. The researcher chose the Pretoria North FRC area because it is situated in his residential area and it was therefore easy to conduct interviews and to access other information that was needed to finalise this research.

1.7.2 Conceptual delimitation

In the course of the study, the key concepts below featured prominently and repeatedly. In order to identify and refine the different literature sources, it was 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 that need to be defined are: firearm, firearm ownership, at-risk individual and Section 102 enquiry.

1.7.2.1 A firearm

A Firearm is defined in Section 1 of the Firearms Control Act 60 of 2000 (FCA) 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 can be readily altered to be a firearm within the meaning of paragraphs (a) or (b); (d) device manufactured to discharge a bullet or any other projectile of .22 calibre 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).

A firearm is a weapon that fires either single or multiple projectiles propelled at high velocity by the gases produced through rapid, confined burning of propellant. In older firearms, these propellants were typically black powder, but modern firearms use smokeless powder, cordite, or other propellants. Hawkins (2003:3) defines a firearm as a small gun, rifle, pistol or revolver, while Tullock (1993:559) describes a firearm as a gun, especially pistols or rifle.

For the purpose of this study, a firearm is any device comprised of a firing pin, frame and a barrel which are 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. The new Act excludes firearms conforming to the above definition if they are below 5.6 mm and discharge bullet by means of gas through deregulation (air guns).

1.7.2.2 Firearm ownership

For the purpose of this study, a firearm owner is an individual who by virtue of a licence issued by the Central Firearm Control Registrar (CFCR) or the Provincial Designated Firearm Office, in case of a renewed firearm licence, owns a firearm that is registered on his/her name on the firearm system database under any of the categories contemplated by the FCA (Sections 13-20 of the FCA).

1.7.2.3 At-risk individuals

Section 6 (2) of the Firearms Control Act 60 of 2000 (FCA) stipulates that subject to the provision of section 7, no licence may be issued to a person who is not in possession of the relevant competency certificate.

Section 9 (2) of the FCA which deals with the competency certificates, stipulates that a competency certificate may only be issued to a person if he or she

(a) is 21 years or older when an application is launched; (d) is of stable mental condition and is not inclined to violence; (e) is not dependent on any substance which has an intoxicating or narcotic effect; (f) has not been convicted of any offence under or in terms of this Act or the previous Act and sentenced to imprisonment without the option of a fine; (g) has not been convicted, whether in or outside South Africa, of an offence involving the unlawful use or handling of a firearm by him or her or another participant to the offence; (h) has not been convicted, whether in or outside South Africa of an offence involving (i) violence or sexual abuse and sentenced to imprisonment without an option of a fine or (ii) physical or sexual abuse which occurred within a domestic relationship as defined in section 1 of the Domestic violence Act, 1998 (Act 116 of 1998); (j) has not been convicted of an offence involving the abuse of alcohol or drugs and sentenced to a period of imprisonment without an option of a fine; (m) has not been convicted of an offence involving the negligent handling of a firearm; (p) has not been declared unfit to possess a firearm in terms of this Act (FCA) or the Previous Act (Arms and Ammunition Act 75 of 1969; (r) has successfully completed the prescribed training and practical tests regarding the safe and efficient handling of a firearm.

For the purpose of this study, at-risk individuals are people whose records indicate that they are violent, depend on drugs or substances or are not mentally stable. These people are deemed to be at-risk and cannot be entrusted with firearms. One example is a person who is inclined to violence, as indicated in subsection (d) above. Such a person is likely to use a firearm, should he or she possess one, if his/ her assailant would resist an attack. Such individuals are normally identified during competency application by means of fingerprint elimination and background checks.

1.7.2.4 Section 102 enquiry

This is an enquiry conducted by the police to determine the fitness of the person to possess a firearm after that person has contravened the provisions of the FCA. According to section 102 of the FCA, the SAPS may declare a person unfit to possess a firearm, without that person necessarily being convicted of any offence by a court of law, if the police, on grounds of a statement under oath, believe that:

- 1 A person has threatened or expressed the intention to kill or injure him or herself or any other person, or a final protection order was issued against him/her;
- 2 A person's possession of a firearm is not in his or her interest as a result of his or her mental condition, inclination to violence, or dependence on alcohol or drugs, or
- 3 A person has failed to take reasonable steps for the safe keeping of the firearm.

Such a person will then be called to a hearing to give reasons why he or she should not be declared unfit to possess a firearm. The police officer attached to the FRC will conduct a hearing, and, if satisfied that the original reasonable belief on which the hearing was based is supported by the evidence, will declare him/her unfit.

If the respondent is found guilty, the verdict is captured on the FCA system and the respondent's firearms are confiscated, if there are any. The respondent will not be eligible to apply for a firearm licence for the duration of the unfitness declaration, in compliance with Section 9 (2) (p).

1.8 Problems that complicated the study

Some problems were encountered during the research process, which had not been anticipated during the planning process. These challenges obliged various concessions, or else they would have disrupted the objective of the study. In this section, problems experienced by the researcher in the completion of the study, as well as remedies to resolve the problems, will be discussed briefly.

- 1 Only 113 of the 200 questionnaires that were left at the training providers and FRC, were completed. If the response rate had been higher, more information might have been available that could have been used for the study. According to Earl (1989:242), a

response rate of at least fifty per cent is adequate for analysis and reporting. Earl (1989:242) continues by adding that the fifty per cent response rate is merely a rough guide with no statistical basis, and a demonstrated lack of response bias is far more important than a high response rate. Interviews were conducted with the relevant role players about the impact of the FCA in restricting firearms to at-risk individuals. This was done in an effort to compensate poor response of the questionnaires. The outcome thereof was a thorough analysis of this subject.

- 2 In conservative White areas as indicated in table 5.1 of paragraph 5.2.1 such as Kameeldrift, Pretoria Moot, Sinoville and Wonderboompoort there was unwillingness by some of the firearm applicants/owners to participate in the short interview. Although they were shown the questionnaire and assured that there was no need to identify them, they refused to participate. Around one in ten persons did not want to participate in the short interview. The research results in those areas therefore only portray the views of those who were willing to participate.

No formal follow-up could be done to discover reasons why some of the respondents would not want to participate in the interviews. The researcher considered their refusals to participate, based on their reactions, to be as a result of their disapproval of the FCA. Remarks such as “[t]hey just want to take away our firearms” and “[n]o I am not interested in that law of yours - I am going to hand in my firearms”, led to the researcher coming to such a conclusion.

According to Champion (1993:142), if questionnaires are administered on a face-to-face basis, factors such as appearance or the ethnic/racial origin of the investigator or questionnaire administrator, and the types of responses required, sometimes determine the outcome. Champion is further of the opinion that the interviewer needs to adapt to the dressing standard of the settings they are investigating. On the day of the short interview, the researcher was dressed in semi-formal clothing and introduced himself as a Unisa student, instead of as a police officer. The interviewees were addressed in English and none of them

objected to the language usage or refused to talk to the researcher. The questionnaires were later forwarded to the FRC and firearm dealers for distribution to the target group, but the response rate still did not improve in the areas indicated above.

The researcher is of the view that the poor response from the above areas does not pose a threat to the validity of the research, because a non-probability sampling method, namely the purposive sampling method, was utilised. This sampling method does not require that the sample should represent the population, as the sample consists of “handpicked elements from some target population” (Champion, 1993:105). These interviews were consequently examined in terms of other secondary data gathered.

3. Some of the DFOs interviewed were not willing to be interviewed if the researcher used a tape recorder. The researcher opted to make detailed notes of the interviewees responses, to overcome the problem. For the sake of consistency, the researcher decided to retain this method of data recording with the DFOs. Some of the senior DFOs did not honour their appointments, and most opted to go through the interview questions with the researcher and complete it later. That was also a problem, since not all returned their responses.
4. The Pretoria North FRC policing area, as described in paragraph 1.7.1, was subdivided while this study was in progress, with the establishment of Soshanguve FRC which took over firearm administration of stations north of Pretoria North FRC, namely, Soshanguve, Rietgat, Hammanskraal and Akasia. That compelled the researcher to deal with two offices for the purpose of data collection. Ten months later, provincial boundary changes were implemented, which resulted in four police stations from North West Province being added to Soshanguve FRC. Those stations could not be incorporated into this study.

Because various problems were encountered during the research, the results can be regarded as a true reflection of the real context within which the research was conducted. Alternative measures

were taken to overcome these problems, and they did not impact negatively on the validity and reliability of this research.

1.9 Layout of the dissertation

In this paragraph the layout of chapters in this dissertation is given in chronological sequence. In Chapter 1 an introduction is given in order to contextualise the study and, more specifically, the research problem. Also included in Chapter 1 are the research methodology followed in this report, the structure of the study itself and the ethical consideration given during the research process to generally accepted norms and values. In Chapter 2 the extent of the firearm restriction to at-risk individuals, with reference to at-risk individuals, elimination of at-risk individuals from gun ownership and the South African government's role in restricting firearms from at-risk individuals, are discussed. In Chapter 3 the researcher analysed international best practice in legislative provision for establishment of firearms control, with specific reference to development of arms control internationally, development thereof in the Southern African region, historical development of firearms in South Africa and the legislative provision for the introduction of the FCA.

Chapter 4 deals with the prevention strategy for at-risk individuals, with reference to primary prevention, secondary prevention and tertiary prevention. Chapter 5 summarises the research findings with regard to the sample of 113 respondents, interviews conducted with the different role players on the impact of the FCA in restricting firearms to at-risk individuals in the Pretoria North FRC policing area, and the analysis of firearm applications in the same area. Data collected is also analysed in Chapter 6. Finally, recommendations made on the basis of interpretation of data in Chapter 6, are presented in Chapter 7.

CHAPTER 2

THE EXTENT OF FIREARM RESTRICTION TO AT-RISK INDIVIDUALS

2.1 Introduction

It is common knowledge that legally held firearms are still abused and misused in domestic violence, suicides and other family related violence. On the other hand, illegal firearms which are not regulated are used in criminal activities. A huge challenge becomes a control mechanism to both legal and illegal firearms. Firstly, it becomes important to establish where an illegal firearm comes from, since there are no factories or companies manufacturing illegal firearms except for the few backstreet manufacturers. Logic dictates that most illegal guns were at some stage legal, and because of factors such as theft, robbery, negligent loss, etc., landed in the wrong hands.

The previous Arms and Ammunition Act 75 of 1969 failed to adequately screen firearm applicants to ensure that they were responsible and competent individuals. The monitoring process of firearm owners to curb negligence and misuse, was also lacking. Despite numerous amendments to the Arms and Ammunition Act, firearms were still issued freely. An estimated amount of 195 389 firearm licences were approved in 1997, and 183 455 in 1998 alone.

The Firearms Control Act 60 of 2000 makes provision for the applicant to show that he or she is sufficiently reliable and capable of taking responsibility for the firearm. It also gives the SAPS an opportunity to screen applicants to ensure that at-risk individuals do not access firearms.

This chapter will focus on elimination of at-risk individuals from owning guns, negligence as a contributing factor to the illegal pool of firearms, a need for stricter gun laws, and background check as a basic tool in eliminating at-risk individuals. Government's role in firearm restriction and the legislative overview on firearm restriction closes the chapter.

2.2 Background

There has been a general relaxation of legislation in South Africa during government changes from an apartheid system to a democracy (1993-1999) in South Africa. Such a relaxation in the Firearms Act led to an increase in the number of firearms licences issued nationally. The Province of Gauteng emerged to lead all provinces in South Africa, with Pretoria and Johannesburg in particular, in the number of firearms possessed and the number of individuals in possession of legal firearms. There were, for instance, 2027411 individuals with 3597093 firearms in South Africa by 1999. Of those individuals, 501958 with 855502 firearms were in Gauteng. Among them, 102812 individuals with 158200 firearms lived in Johannesburg while 135664 individuals with 266179 firearms lived in Pretoria (see table 2.1).

Table 2.1: Licences held by individuals in the Gauteng Province

Year	National		Gauteng		Johannesburg		Pretoria	
	Individuals	Nr of Firearms	Individuals	Nr of Firearms	Individuals	Nr of Firearms	Individuals	Nr of Firearms
1999	2027411	3597093	501958	855502	102812	158200	135664	266179
2006	2004078	3546967	497195	905775	99279	159396	132181	288793
Difference	-23333	-50126	-4763	+50273	-3533	+1196	-3483	+22614
Percentage	-1.15%	-1.39%	-0.95%	5.87%	-3.44%	0.76%	-2.57%	8.49%

Source: Central Firearm Registry: March 2006

Table 2.1 indicates that the number of individuals who own firearms and the number of firearms

owned has dropped nationally between 1999 and 2006. In Gauteng, the number of individuals who own firearms has dropped, while the number of firearms owned has increased. Once again, Pretoria and Johannesburg, which represent a larger portion of firearms ownership, has shown the same increase, with Pretoria leading by an 8.49% increase and Johannesburg 0.76%. This study will investigate whether a drop in individual ownership was as a result of the implementation of the Firearms Control Act and what led to the increase in the number of firearms (legal) in circulation.

In 1994, South Africa's system of apartheid was formally abolished (Gould & Lamb, 2004:7). They reports that the legacy of half a century of repressively enforced racist governance left a large segment of South Africa's society impoverished and brutalised. He is of the opinion that the consequence of that was that for a country that is not in a state of war, Africa's southernmost nations have one of the world's highest rates of armed violence and crime per capita. Minnaar (1998:1) is of the opinion that ready availability of guns is the central cause of violent crime in South Africa. He continues to say that people are still embedded in the culture of resolving conflict situations using firearms. Minnaar emphasises the fact that proper control and the reduction of the current proliferation of firearms in South Africa, and its linkages to violent crime, are critical to the establishment of stability and ensuring that people feel secure and safe in their neighbourhood (Minnaar, 1998:2).

Minnaar (1998:1) supports Keegan (2005:25) in his opinion that it is important to take note of the fact that those formerly legal guns continue to enter the illegal pool each year. He says that in essence it means that the illegal pool is constantly increasing. According to Chandre and Lamb (2004:133), the illegal pool in South Africa is exacerbated by the illegal importation and smuggling of firearms into South Africa, as well as the theft or robbery of firearms in legal possession and legal firearms reported lost. They are of the opinion that the availability resulting from such an illegal pool contributes to the increase in incidences of violent crime.

According to Chetty (2000:32), the supply of firearms in South Africa is fuelled by losses and theft of legal firearms from individuals and state sources. People losing firearms out of

negligence are deemed to form a large group of at-risk individuals for gun ownership. This research will further investigate if the FCA is addressing that problem. Some of the problems that led to an increased influx of firearms were the easy accessibility of firearm licences in terms of the Arms and Ammunition Act 75 of 1969, and the non-screening of the prospective firearm licence applicants. It was not a requirement in terms of Act 75 of 1969 to screen firearm applicants. Literally speaking, everyone who applied for a firearm and did not have a criminal record that could be tracked down through his/her fingerprints, was guaranteed a firearm licence.

2.3 At-risk individuals

The FCA requires the police to withhold or withdraw firearm licences from people who are not fit to possess firearms because of, among other things, their negligence in firearms handling, violent behaviour that may lead to injury or death to themselves or to other people around them, and mental instability. These people are generally regarded to be at-risk individuals and cannot be entrusted with firearms.

2.3.1 People who express intention to kill themselves or other people

Around 1980, in the United States of America (USA), firearms were the third most used methods of committing suicide, after hanging and gassing. Strict handgun control laws in the USA helped to bring down suicides using firearms by 23 per cent. He reports that on the contrary, Australia, with its weaker gun control laws, experienced a higher suicide rate using firearms, between 1961 and 1985. Lester reports further that Australia imposed stricter gun control laws, and the results were positive, with the reduction of firearm suicide by 21 per cent. Canada also tightened its gun control in 1977 and saw a decrease of firearm suicide rates (Lester, 2000:212). He goes on to say that studies were conducted in over 12 countries, including Canada, and it was found that most firearm suicides were associated with the percentage of households owning guns.

The study further indicated that most people committing suicide at home were more likely to have guns at home, live alone, been hospitalised for drinking, were on medication, use illicit drugs, have more quarrels/fights, arrests, and depression or mental illness. People who have by word of a mouth or actions indicated that they are likely to kill themselves or any other person,

are deemed to be risky and cannot be entrusted with firearms. The FCA sets out stiff criteria that people must meet before they can be certified as competent to apply for firearm licences. Among others, the applicant must be at least 21 years old, pass the prescribed test in safe handling of firearms and display a good knowledge of the FCA, must not have a criminal record where violence is an element, and must not be inclined to violence.

2.3.2 People with unstable mental condition

It is popularly known that brutal, violent and senseless crimes are mostly committed by someone who is “mentally ill” or “sick”. The acceptance is based on the assumption that mentally ill people do not play by the rules of society, are unpredictable, and cannot control and be held accountable for their actions. Since they are capable of doing anything at any given time, they are dangerous and risky (Barton, 1983:125). Mental illness is defined by Barton and Barton as a disorder of the mind that is judged by experts to interfere substantially with a person’s ability to cope with life on a daily basis (Barton, 1983:126). Pilgrim and Rogers (1993:181) are of the opinion that people experiencing active psychotic symptoms normally have a greater tendency towards violence than the ordinary community population.

In modern Europe and North America, madness is understood to be illnesses and brain disease. Because of their ill status, mentally ill people are relieved of their roles and responsibilities. The deficits and dysfunctions of mental illness provide justification for the exclusion of those people from every day’s serious life activities (Repper & Perkins, 2003: vii). People who are not mentally stable cannot by law be held responsible. Responsibility and liability under English law is founded on the doctrine of *mens rea*, which largely involves the state of mind of the perpetrator (Howells & Hollin, 1993:10). They argue that crimes involving *mens rea* are referred to as ‘real’ or ‘true’ crimes because they involve morally unacceptable behaviour and it is the presence of *mens rea* which allows this moral judgement to be arrived at. They further argue that for the offender to be held responsible, his act must be voluntary (i.e. wilfully from the brain) and it must be committed by a person of sound mind.

The relationship between mental illness and criminal behaviour has been an issue to decision

makers. The concept within society that criminal behaviour is higher in the psychiatric population, including the mentally ill, than in the general population, made it even more difficult (Howell & Hollin (2003:73). According to Howell and Hollin (2003:71), the following three aspects need to be considered when considering association between mental illness and criminal behaviour: there are people who experience mental illness and do not commit crime; there are those who commit crime and are not mentally ill; and there are those who display both mental illness and criminal behaviour. A study conducted in the UK indicates that there are high rates of crime among discharged psychiatric patients (Howell & Hollin, 2003:74).

The most recent views on causes of crime are individual human factors and environmental factors (Stevens, 1987:08). Among personal factors are temperament and emotions. Temperament can be described as the susceptibility of the individuals in emotional situations and relate to the tendency to change moods. A temperamental person can either be irritable and explosive, calm and composed, or cheerful and exuberant (Stevens, 1987:14).

Emotions may be described as the feelings aroused in a person by some stimulus that may originate from within or triggered from outside stimuli. Specific emotions like anger, fear, or jealousy may lead to assault, murder and similar crimes (Stevens, 1987:15). Emotional and temperamental individuals may be regarded as at-risk individuals, for the purposes of the FCA. Section 6(2) of the FCA stipulates that no person may be issued with a firearm licence if he or she is not in possession of a competency certificate. Section 9(d) states that a competency certificate may only be issued to a person if he is of stable mental condition and is not inclined to violence, (1) has not been convicted of the offence in terms of the Domestic Violence Act 116 of 1998 (DVA). An individual who is emotional and temperamental, as discussed in the previous paragraph, does not conform to the provision of section 9 of the FCA and may in terms of section 6(2) not be issued with a licence to possess a firearm.

Cohen and Felson (1979:10) argue that higher rates of crime occur where there are higher numbers of motivated offenders, suitable targets and an absence of capable guardians to protect against the occurrence of the offence. Preventive control can take place through penal law or

through legislation (Stevens, 1987:37). Legal control entails police involvement in removing the object that can be used to commit crime, such as drugs, firearms, etc. and includes passing of sentences by the courts for those transgressions.

Information on mental stability can be obtained during background checks on the applicant to sift out at-risk individuals from obtaining firearm licences. The fact that persons with unstable mental conditions have a high possibility of injuring, killing or damaging property because of poor judgement, causes them to be at-risk individuals.

2.3.3 People who are dependent on intoxicating or narcotic substances

It has become common to link violence to substance abuse (Siegel, 2006:237). Alcohol abuse, for example is rightfully linked to violence because of its effect on reducing cognitive ability, making miscommunication more likely, while reducing rational dialogue and compromise (Siegel, 2006:238). According to Kempen (2006:11), there is a greater incidence of socio-contact crimes over weekends when people are socially more active and alcohol is consumed, which leads to high tempers and fights.

The FCA makes it compulsory for the police to conduct background checks on a firearm applicant and prohibit anyone with the history of substance abuse or violent behaviour from owning a gun. Hawkins (2003:140) defines a drug as a substance that affects a person's senses or mind. According to Criminon (1998:1), a person on drugs has blank periods and has delusions that remove him from the present, and cannot be given a position of responsibility because he may go blank, miss a menacing situation and not be able to handle it.

The psychological effects of substance dependency are among others, aggression, depression, suicidal, sensitive to criticism, loss of all sense of responsibility, emotional outburst and personality change (South African Police Service' social work service, 2001:4). Physical effects include disorientation, hallucination, amnesia, acute fear, trembling, fever and a fast but weak heartbeat (Kruger et al., 1996:93).

Firearms in private or civilian possession are mostly used for self-defence, defence of own property and family members. Before a licence holder uses his firearm, he must first analyse the situation before deciding whether to use it or not. Based on the above symptoms and side effects of drug/alcohol dependency, it is not safe for such a person to be in possession of a firearm. A person who can at times goes blank in his mind, who is suicidal, aggressive, and prone to emotional outbursts, is assumed to be highly at-risk to possess a firearm.

2.3.4 People convicted of offences under the FCA or the previous firearms Act

A set of fingerprints is taken on form SAPS 91(a) for each applicant who applies for firearm application and firearm renewal, to detect the applicant's criminal record. These fingerprints are forwarded to the Criminal Record Centre for classification by the experts. If, through fingerprints, the applicant has a criminal record involving violence, dishonesty or sexual abuse, then he or she will be regarded at-risk to be issued with a firearm licence in terms of section 9(2) (f-o) of the FCA .

2.3.5 People convicted of an offence in terms of the Domestic Violence Act, 1998

One of the primary reasons behind the promulgation of the Domestic Violence Act 116 of 1998 (DVA) was to address the level of physical violence involved in domestic violence. Firearm usage in domestic disputes has reached the highest level of 40% (Smythe, 2004:19). Section 7(2) (a) of the DVA gives magistrates the discretion to issue an order for the SAPS to seize any firearm or dangerous weapon in possession of the perpetrator. Section 9 of the DVA makes it explicitly the responsibility of the court to order seizure of a firearm in domestic violence.

Section 9(1) of the same Act lists instances where a magistrate can issue an order for the seizure of a firearm, and it has been built into section 102 of the FCA, and makes provision for the police to convene an enquiry into the fitness of a respondent to continue possessing a firearm after such seizure or violent conduct. The SAPS members are also obliged by section 6(7) of the DVA to execute a court order to seize a weapon or firearm in possession of the respondent.

Regarding the availability of firearms to at-risk individuals, Jacobs (2002:08) has the following

to say about firearms: “Guns in routine fights and robberies intensify violence, increasing the likelihood of death, because a gun increases the scope and lethality of violence”. Offenders with a high frequency of violent offending tend to be chronic offenders (Wikström per-olof, 1985:15). Smythe (2004:19) is of the opinion that domestic violence in South Africa is marked by a high level of physical violence accompanied in many cases by weapon usage.

According to Brantingham and Brantingham (1981:1), the places where delinquents chooses to commit crime are those areas with which they are familiar and where they spend most of their time. A research conducted in Australia, Britain, Canada and New Zealand revealed that 89-95% of gun homicide victims are shot by a person well known to them, 52% are shot by a licensed gun, and 55% are shot during family violence (Brantingham & Brantingham, 1981:5).

2.3.6 People declared unfit to possess a firearm

South Africa's gun law allows the courts and the police to take away guns and gun licences from people who are unsuited to have them, by declaring them “unfit to possess a firearm“. Gun Free SA (2001) reports that unfitness declaration can be done when a person has engaged in serious criminal activities, is violent or addicted to drugs, or is negligent in the storing or safekeeping of the firearm. This is an important tool for removing guns from violent or other unsuitable people. The Pretoria West Police College dropped the 102 training from its training curriculum in the late 1990s, as it was not considered part of everyday policing. That has resulted in serious neglect of this important tool.

In terms of Section 102 of the FCA, the Registrar may declare a person unfit to possess a firearm in the following instances:

- (a) If a final protection order has been issued against such a person in terms of the DVA.
- (b) If that person has expressed the intention to kill or injure him- or herself or any other person by means of a firearm or any other dangerous weapon.
- (c) Because of that person’s mental condition, inclination to violence or dependence on any substance which has a narcotic effect, the possession of a firearm by that person is not in the interests of that person or of any other person.
- (d) If that person has failed

to take the prescribed steps for the safekeeping of any firearm.

(e) If that person has provided information required in terms of this Act which is false or misleading.

The following court cases give a short insight into how the courts have applied for the Act to exclude at-risk individuals from owning firearms: In *S v Flatella* 1991 (2) SACR 395 (NC), a case of assault with an intent to do grievous bodily harm (GBH) was heard in court and the judge ruled that upon conviction on a charge of assault GBH, declaration of unfitness to possess an arm in terms of section 12 (1) (a) of the Arms and Ammunition Act, [now Section 103 (1) (a) of the FCA] follows automatically, unless the court determines otherwise. It then becomes the responsibility of the police to capture such unfitness declaration on the system, in order to prohibit the perpetrator from possessing firearms for the duration of such unfitness.

In *S v Hatting* 1991 (3) SA 322 (w) a case of negligent loss of a firearm was heard in court and the presiding judge indicated that the judicial officers dealing with similar cases need to bear in mind special features of offences created by section 39 (1) (I) and (k) and to read them with Section 23(a) of the Arms and Ammunition Amendment Act 60 of 1988 which clearly differentiate between failure to lock away a firearm in a safe place and failure to prevent loss or theft of a firearm. The dictum in *S v Nundhahl* 1984 (4) SA 264 (N) at 267i - 268d indicates that when deciding upon the sentence, a judicial officer will have to regard the intention of the legislature, viz. to prevent lost or stolen firearms ending up in the possession of unqualified or irresponsible persons.

Pistols and revolvers are much sought after by persons contemplating various criminal activities, including robbery (to intimidate, injure or kill the victim), housebreaking, theft or other crimes (often to enable the criminal to overcome any resistance he may encounter at (or when seeking to leave) the scene of the crime. Such persons are constantly on the lookout for opportunities to acquire pistols or revolvers by any means, including theft, robbery and housebreaking. It is readily foreseeable by every possessor of such a firearm that if he keeps it without exercising due care, he will himself be liable to become the victim of a crime directed towards depriving him of

the possession of his firearm; and further, that once a criminal has gained possession of his firearm, it is likely to be used in the commission of other crimes against other victims who may be injured or even killed. The judge concluded *S v De Almeida* that if a lawful possessor of a firearm leaves it in an unsafe place, he commits an offence.

In *Minister of Safety and Security v Van Duivenboden* [2002] 3 All SA 741 (SCA), the respondent threatened to kill his wife and children and the police took his firearm away. He appeared in court and his firearm was given back to him. He killed his wife and children and the judge ruled against the SAPS in that they should have convened an enquiry into the fitness of the respondent to possess a firearm before disposing of that firearm (deciding whether to give back a firearm). Smythe (2004:23) reports that in the above case the Supreme Court placed a clear, positive duty on police members, through legislation. The court held that the police's failure to hold a section 11 (now section 102) hearing on two occasions on Mr Brooks for being "fond of firearms" and "fond of alcohol", which he habitually consumed in excess, while he showed a propensity to violence when he shot Mr Duivenboden, his wife and daughter. The court found that the failure by the police members to declare Mr Brooks unfit to possess a firearm, when it could reasonably have been expected of them to do so, had given rise to the damages suffered by the victim (Smythe, 2004:23).

The above decided court cases are but a few selected ones to indicate the importance of the section 102 unfitness declaration enquiries by the police. The SAPS, as the primary enforcers of the FCA, are also responsible for administering an unfitness declaration by the court in terms of section 103 of the same Act. In terms of Section 103 (1) of the FCA, unless the court determine otherwise, a person becomes unfit to possess a firearm if convicted of -

- (a) the unlawful possession of a firearm or ammunition; (
- b) any crime or offence involving the unlawful use or handling of a firearm, whether the firearm was used or handled by that person or other participants in that offence; (c) an offence regarding the failure to store firearms or ammunition in accordance with the requirements of the Act;
- (d) an offence involving the negligent handling or loss of a firearm while the firearm was in his

or her possession or under his or her direct control; (e) an offence involving the handling of a firearm while under the influence of any substance which has a narcotic effect; (f) any other crime or offence in the commission of which a firearm was used, whether the firearm was used or handled by that person or by another participant in the offence; (g) any offence involving violence, sexual abuse or dishonesty, for which the accused is sentenced to a period of imprisonment without a fine; (h) any offence under or in terms of this Act in respect of which the accused is sentenced to a period of imprisonment without the option of a fine.

The Arms and Ammunitions Act allowed the courts to automatically declare (or “deem”) a person unfit who was convicted of illegal possession of a firearm, pointing a firearm, or negligent loss of a firearm (Gun Free SA, 2003). They report that researchers had, however, found that there were major problems in how these declarations were recorded.

The fact that the ruling was automatic resulted in most magistrates thinking that they did not have to write it on the form that recorded the court judgement. The consequences thereof were that in 87.9% of the case records seen, magistrates left the relevant section of the form blank (Gun Free SA, 2003). They reported that magistrates recorded the declaration properly on only 6.3% of the case records seen.

The other possible reason that led to ”unfit” people going unpunished according to Gun Free SA (2003) was that where the ruling was recorded, the magistrates did use this phrase “no order is made.” They argue that this is a very confusing phrase, which could be misinterpreted by the police or staff at the Criminal Record Centre to mean that the court did not declare the person unfit.

According to Section 120 (4), it is an offence to handle a firearm, an antique firearm or an airgun while under the influence of a substance which has an intoxicating or narcotic effect. A person is also guilty of an offence if he or she gives control of a firearm, an antique firearm or an airgun to a person whom he or she knows or ought to have known: (a) to be

mentally ill;

(b) to be

under the influence of a substance which has an intoxicating or narcotic effect;

(6) it is an offence to discharge a firearm, an antique firearm or an airgun in a built-up area or any public place, without good reason to do so.

A person contemplated in section 102 can be declared unfit to possess a firearm in terms of section 102 (1) (a), whether he already owns a firearm or not.

2.4 Elimination of at-risk individuals from gun ownership

Crimes involving firearm usage is not only a South African problem, but a global concern. Studies in Australia, Britain, Canada and New Zealand (ISS, 2000:5) have identified the following indicators of gun violence by at-risk individuals:

TABLE 2.2: INDICATORS OF GUN VIOLENCE

INDICATORS	PERCENTAGE
Maleness	90-97%
Familiarity	89-95%
Domestic discord	55%
Legal gun ownership	52%
Alcohol usage	30-65 %
Criminal Record	18%
Mental illness	2-16%

SOURCE: INSTITUTE FOR SECURITY STUDIES, 2000

From the above statistics it is evident that 82% of gun violence and death is committed with licenced firearms (only 18% of previous offenders did not use the firearm to harm others), which indicates at-risk-ness of those gun owners. A further survey from the same countries indicates that women who are victims of abuse were familiar with their victims or were partners/lovers or spouses (59%). A survey conducted by the Institute of Security Studies indicated that the Arms and Ammunition Act did not sufficiently penalise firearm-related transgressions. (ISS, 2000:6). An example was where 787 firearm-related dockets were perused, and only seven (7) unfit

procedures instituted or filed. Of the seven, one person was not found guilty and three were found guilty. The remaining three cases have no indication of the court ruling on the suspects' fitness to possess a firearm (ISS, 2000:3).

The implication of the above survey is that 780 at-risk individuals will go to prison and immediately on their return continue to own firearms or may apply for firearms which were also guaranteed to be approved in terms of the Arms and Ammunition Act.

The FCA has added background checks which entails three interviews with the spouse and neighbours, to establish the character of the applicant. This is done in addition to the sole fingerprinting elimination system that was used in the Arms and Ammunition Act. This study endeavours to establish if a combination of this process is actually eliminating at-risk individuals from owning firearms.

2.5 Elimination through background checks

The processing of firearm applications in terms of the Arms and Ammunition Act entailed an applicant going to his nearest police station to complete the necessary application forms, the local police processing and forwarding the application to the Central Firearm Control Register (CFCR), and a deciding officer at CFRC approving or refusing the licence. Deciding officers were mostly guided by records from the Local Criminal Records Centre (LCRC) for refusal. Such practices led to the Minister of Safety and Security being claimed/sued for damages as a result of a licence that was issued to a person who was not fit and proper, in the famous case *Hamilton vs. Minister of Safety and Security*. In short, the claim arose from an incident where a person who was not mentally stable and was an alcoholic was granted a licence to possess a firearm by the police based on information on the application form. The applicant, now a legal firearm owner shot two people fatally injuring one. Injured victim claimed the minister of Safety and Security for damages. The Judge found that the firearm owner in question was unfit to possess a firearm when she applied for the firearm licence, when the firearm licence was issued and when she shot the victim. The Judge ruled that the police should have noted their observation relating to the applicant's past, character, physical and temperamental fitness to possess a firearm and knowledge of the weapon. The victim was paid damages.

The new FCA added an operational leg to the firearm application process by introducing background check evaluation on all firearm licence applicants. Background check evaluation entails the following:

The Designated Firearm Officer (DFO) must:

- conduct a minimum of three interviews;
- conduct at least two interviews in person and the other one may be telephonic;
- conduct one interview with a family member.

The Designated Firearm Officer may be guided by the following questions:

- (a) how long have the interviewees know the applicant?
- (b) What is the interviewee's relationship with the applicant?
- (c) To the interviewee's knowledge is the applicant violent in nature? (d)
- Interviewee to describe the applicant's temperament/ behaviour? (e) Is the applicant abusive, according to the interviewee?

(9) DFO may use the following source to support background checks:

- (a) Police station domestic violence register to check the applicant's record. (b)
- Criminal Administration System (CAS) for cases against the applicant. (d)
- Profiling on the B1 system for criminal background on the applicant. (e)
- Information books for any violent or unbecoming conduct by the applicant.

From the above discussion it is evident that screening on firearm applicants in terms of the Arms and Ammunition Act was not a priority. The personal character of the applicant which forms an integral part of how a person conducts him-/herself in different situations was not considered in the application process. The FCA makes provision for background evaluation of the applicant. Through interviews people around the applicant are afforded an opportunity to object or consent to the applicant being issued with the firearm licence. Elements such as violence, substance abuse, mental instability can be detected in advance by refusing the applicant a licence.

Good as the background checks sound to be, it still remains the duty of the police to go out and does a proper background check, and for the community to stop hiding bad elements among

themselves by telling the truth about the applicant's character. This study will endeavour to (a) establish if proper background checks are in fact carried out, and (b) have their effectiveness determined.

The second strategic priority of the SAPS is to combat serious and violent crime, hence counter the proliferation of firearms, to improve safety and security in high-crime areas, and to maintain safety and security at large events.

2.6 Negligence as a contributing factor to at-risk-ness

The negligent loss of firearms refers to the loss of a firearm through irresponsible action by the licence owner, and non-compliance with licence conditions. It is important to note that formerly legal guns continue to enter the illegal pool each year, which means that the number is constantly increasing. The following table indicates common places where firearms are neglected:

Table 2.3 Theft of firearms in South Africa: 1994-1998

Place where firearms were kept at the time of theft		
Place kept	Number of firearms	% of total
Safe	156	27.1
Unknown	109	19
Holster	77	13.4
Cupboard/cabinet	54	9.4
Car	49	8.5
Bag	42	7.3
Other	29	5.0
Bed	26	4.5
On complainant	11	1.9
Briefcase	10	1.7
Drawer	7	1.2
Trunk	3	0.5
Armoury	2	0.3

TOTAL	575	100%
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Source: Chetty, 2000:48

Chetty (2000:32) is of the opinion that the illegal supply of firearms in South Africa is fuelled by negligent losses and theft of legally owned firearms from individuals and state sources. He further states that there has been an increase in the number of firearms being reported lost and stolen each year.

In South Africa there are more civilian firearms than police and military firearms combined, and the number of civilian firearms lost and stolen is also high (Gould & Lamb, 2004:201). They are of the opinion that the high level of civilian ownership and consequent loss and theft present a challenge to the SAPS in their attempt to control the proliferation of illegal firearms in South Africa and the African region. They say it is hoped that the strict requirements meted out by the FCA will reduce the number of civilian-owned firearms in the future. Statistics indicate that of the 208 090 firearms reported stolen or lost between 1994 and 2003 nationally, only 153 462 were recovered. The table below indicates a breakdown per year:

TABLE 2.4: FIREARMS CIRCULATED LOST/ STOLEN FROM CIVILIAN OWNERS: 1998-2003

FIREARMS CIRCULATED LOST/ STOLEN FROM CIVILIAN OWNERS: 1998-2003		
YEAR	NR OF FIREARMS STOLEN/LOST	RECOVERED
1994	14 158	6 727
1995	15 045	9 834
1996	18 619	11 185
1997	29 009	10 70
1998	22 563	13 712
1999	22 740	14 272
2000	21 996	15 421
2001	21 892	19 746
2002	21 641	21 607
2003	20 427	30 208
TOTAL	208 090	153 462

Source : Central Firearms Control Registry, 5 September 2003

In the above table, stolen and lost were used together because it is difficult to get the true facts that will distinguish theft from loss. Factors such as sections 102 and 103 of the FCA and the insurance claims makes it difficult for the firearm owners to report their firearms as lost. They fear to be declared unfit and to lose out on insurance claims if they report loses, and they resort to theft (Gould & Lamb, 2002:198).

The above figures indicate clearly that South African gun owners are somehow negligent and do not look after their firearms, if 208 090 firearms can reach criminal hands within nine years. A total amount of 54 628 of those firearms were still not recovered by 5 September 2003. An important question to ask remains: Who is in possession of those firearms, what they are doing with those firearms, how did they gain access to them and what is the government doing to control what seems to be an easy flow of firearms from legal to illegal hands? Are we likely to see the Firearms Control Act addressing that problem? These are some of the answers that this study will seek to obtain. Chetty (2000:39) is also of the opinion that an increase in the number of firearms reported as lost by their owners, contribute to the illegal pool.

2.7 Government roles in restricting firearms

South Africa's National Injury Mortality Surveillance System, which is administered by the University of South Africa (Unisa), recently reported that firearms were used to kill in excess of 6,000 South Africans in 2004 (Gould & Lamb, 2004:3). He reports further that 86% of deaths due to firearms were the result of violence, with the remainder being attributed to suicide (13%) or accidents (less than 1%). More than 80% of victims of firearm violence were men, most of who were between the ages of 20 and 39.

The Centre for Human Dialogue (2006:3) reports that under the international human rights law, states are not only responsible for the actions of their agents (military and law enforcement), but they also have a duty to prevent patterns of abuse committed by private persons. Failure to take effective steps to protect individuals can amount to violation of human rights law.

Felson and Cohen (1980:392) describe protection as “any spatio-temporally specific supervision of people or property by other people which may prevent criminal violations from occurring”. Any person who can prevent the successful completion of a crime could be described as a protector. Wellford, Pepper and Petrie (2004:1) are of the opinion that for the public authorities to make reasonable policies on the matter, they must take into account conflicting constitutional claims and divided public opinion, as well as the relationship between guns and violence, to strike a balance between the costs and the benefits of private gun ownership.

They are also of the opinion that adequate research needs to be conducted to judge the effects of firearms on violence and the effect of violence control policies. In doing so, Wellford et al. (2004:1) propose that the authorities need to ask themselves questions such as: Should regulations restrict who may possess and carry a firearm? Should regulations differ for different types of firearms? If purchase should be delayed, how long should such a delay be, and under what circumstances? Should restrictions be placed on the number or types of firearms that can be purchased? Should safety locks be required? (Wellford et al., 2004:2).

Empirical research in the USA has found that there are higher rates of gun suicides in households with gun ownership (Wellford et al., 2004:2). They are of the opinion that police intervention may effectively lower gun crime and violence.

Legislation regulating issuing of firearm licences to at-risk individuals, and the regulation on those already in possession of a firearm, is the basic deterrent to firearm misuse by at-risk individuals. Aspects such as background checks on a prospective applicant help to sift out at-risk individuals from accessing firearms. An enquiry into the fitness of a person to continue possessing firearms (sections 102 and 103 of the FCA 60 of 2000) helps to deter misuse of firearms by those already in possession of them. Wikström per-olof (1995-440) is of the opinion that capable guardians include any individual who may be regarded by the potential offender as able and willing to intervene, should a crime be committed. Every person in South Africa has the right to life and be protected from violence by Sections 11 and 12 of the Bill of Rights, as contained in South Africa’s Constitution. Spitzer (1998: vii) is of the opinion that the gun debate

revolves around the relationship between the citizens and the state's power to regulate it and maintain public order.

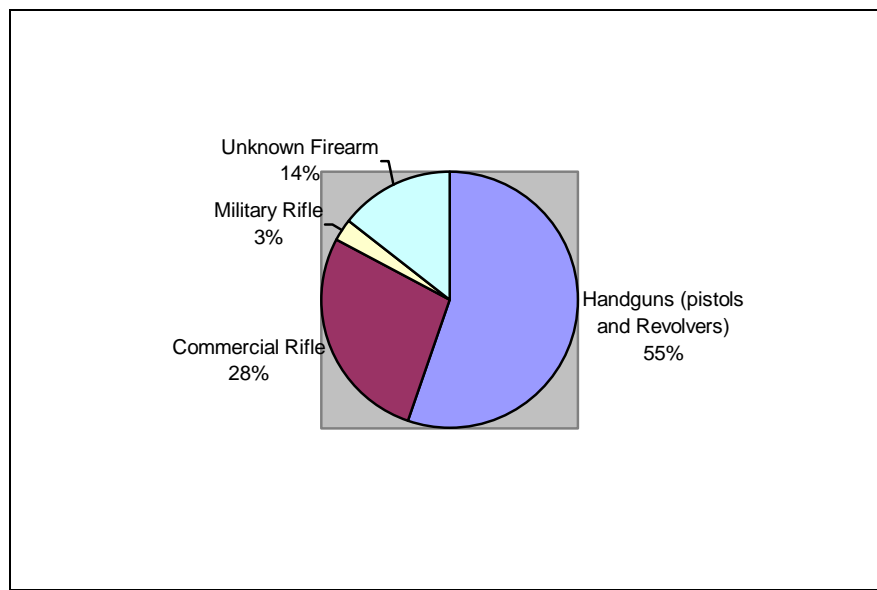
Eck (1994:62) proposes three levels of guardianship, namely, guardian of targets, handlers of offenders and managers of places. He said each of these is instrumental in determining the level and type of crime that occurs. A handler exerts control over the movement and behaviour of the potential offender. A guardian provides surveillance and protection of the target. Managers can take steps to keep offenders and victims from coming into contact with each other. For this specific study, handler or guardians can be described as all relevant role players ranging from firearm dealers who are not supposed to sell firearms to people of less than 21 years; the DFO who must screen and eliminate applicants via fingerprints and background checks; the community, to give proper account on a firearm applicant's character and to report misuse to the police, and the courts to declare them unfit. Managers of places can be ascribed to premises that may be declared firearm-free zones, to prohibit the presence of firearms at those premises.

According to Schönteich (2004:14), the criminal justice system is restrained by factors such lack of resources, unfairness, in-capacity and time wasters. He is of the opinion that understaffed and untrained police members and a restricted supply of resources, such as vehicles and equipment, restrain a well-functioning justice system. He follows by saying that the lack of experience and excessive workload of prosecutors in the Justice Department, as well as poor investigation of case dockets, also contribute to the malfunctioning of the criminal justice system according to Schönteich (2002:14). He believes that intelligence resource allocation and improvement of trained personnel will have a positive influence on the justice system.

In his 'state of the nation' address, the State President of South Africa, Thabo Mbeki said the government will continue to focus on the critical challenge of further improving South Africa's criminal justice system. He said, among other things, that the government will focus on integrated law enforcement operations in priority areas, reducing the number of illegal firearms and ensuring better processing of applications for firearm licences ('State of the nation' address: 2006).

In the 2006 budget vote, the Minister of Safety and Security, Charles Nqakula, indicated that South Africa is one of the few countries that have allowed widespread carrying of handguns for self-defence by civilians. He said that despite the emphasis on problems associated with post-conflict military weapons, pistols, revolvers, rifles and shotguns registered on civilians' names are the ones mostly recovered at crime scenes, rather than military weapons. Figure 2.1 below indicates a clearer breakdown of the type of firearms commonly used in murder cases.

Figure 2.1 Types of firearms used in murders IN South Africa: 1994-1998



Source: Chetty, 2000:21

The above figure corroborates the Minister's statement on handgun involvement in serious crimes. Pistols and revolvers contribute to crime more than all other firearm types combined. The Minister emphasised further that the FCA and the Firearms Control Amendment Act are intended to assist the SAPS in preventing the proliferation of illegal firearms and removing them from society, as well as to controlling legally owned firearms.

A Johannesburg man has reportedly lost two of his family members to gunshots within a period of six years (Gun Free SA, 2001). The first one was fatally shot at the workplace and there was no prosecution for the offender. Six years later, his six-year-old son became a gun victim when his best friend accidentally shot him with a firearm he had borrowed from his father. The

perpetrator's father was declared unfit to possess a firearm for five (5) years, with no criminal prosecution for the injury.

Although one death was deliberate and the other one accidental, this Johannesburg man feels that if guns were properly regulated, his family members would have still been alive. The FCA prohibits a person from lending his firearm out if he is not personally present. It has also raised the age limit for gun ownership from eighteen (18) to twenty-one (21) years.

Firearms in the wrong hands can be a tool of oppression used to commit violation of human rights and national as well as international laws. Among the serious violations is "the right to life" that is often put in jeopardy through misuse of firearms. The protection of this fundamental right rests with the government. It is the responsibility of the government to enact laws that will maximise the protection of life.

2.8 A need for stricter gun laws:

The firearm registration process is intended to record details of a firearm together with information about the person responsible for the weapon. This practice is a widely accepted norm throughout the world, due to the following reasons: it holds gun owners responsible for their firearms; decreases the criminal use of guns; reduces the illegal trade in guns and defuses domestic violence within households. According to Sir Thomas Thorp, a retired New Zealand judge, gun registration is an accepted norm and a cornerstone of gun control (ISS, 2000:2).

A survey was conducted by the HSRC in October 1999, on whether the government should tighten the firearm application process, and the results were as follows:

61% indicated that the government should make it difficult; 6% felt that the government should make it easier; 3% felt that the government should make it much easier; 4% did not know; and 3% said it did not matter (Chetty, 2000:64).

In the USA another survey was conducted concerning the involvement of firearms in violence (Spitzer, 1998:82). 70% of Americans who participated in the survey believe that handgun availability contributes to violence in America. Most Americans believe there should be some

restrictions on the ownership or sale of guns. While others are opposed to the total ban on handguns, the majority of Americans favour some regulations or restrictions. 85% of the respondents also favoured banning the sale of guns to people under the age of 18 years. 69% favoured a complete ban of assault rifles.

Since the Brady Handgun Violence Prevention Act of 1994 went into effect, the Department of Justice estimates that each month about 6600 purchases of firearms have been prevented by the required background checks of potential gun buyers. Over 70% of rejected purchases were convicted or indicted felons. Whether those rejected for purchase ultimately obtained a stolen or otherwise illegal weapon, is unknown. (Spitzer,1998: 83).

In its briefing paper, the Centre for Humanitarian Dialogue (2006:11) states that growing obligation to exercise “due diligence” to protect the population, has encouraged continental desire for greater control over private ownership and use of small arms. They report that the UN commissioner on crime prevention and criminal justice emphasised the importance of the state to effectively regulate civilian firearms through licensing owners, keeping records of guns, improving safe storage requirements and instituting appropriate penalties for illegal possession.

Among the latest continental treaties mentioned in the briefing paper is the Nairobi Protocol (2006:11). It did not only encourage efficient control, but ratified its incorporation into its national laws. Aspects to be included were, among others, total prohibition of civilian possession and use of all light weapons and automatic rifles, semi-automatic rifles and machines guns; regulation and centralised registration of all civilian-owned small arms in its territories; provision for effective storage and use of civilian-held firearms, and competency testing of prospective owners.

From the above deliberation it is evident that effective firearm control is at the heart of the international community, continental neighbours and across the border of South African provinces. Effective control on end users being firearm applicants is not an option but an obligation by the South African government.

2.9 Conclusion

In this chapter it was established that at-risk individuals are people who for one or another reason cannot be allowed to own firearms. The Act regards people who are 21 years old, have passed prescribed tests in the safe handling of the firearm, and lack a criminal record, to be competent. International practices suggest that the following key indicators be probed when assessing firearms licence applicants. They are: conviction history, mental health, substance abuse, and inclination to violence and domestic violence. Among at-risk individuals, the FCA points out people who are violent, dependent on substances, are not mentally stable and have criminal cases against them. At-risk-ness prevention measures introduced by the government, such as background checks, and effective implementation of the FCA to regulate firearms, by law enforcement agencies, lies at the centre of successful restriction of at-risk individuals from having firearms.

CHAPTER 3

LEGISLATIVE PROVISION FOR ESTABLISHMENT OF THE FIREARMS CONTROL ACT

3.1 Introduction

This chapter endeavours to unpack the legislative provision for the establishment and enforcement of the Firearms Control Act (FCA) from a policing perspective, and its impact on at-risk individuals, ranging from the Constitution of South Africa, the White Paper on Safety and Security, the SAPS Act, National Crime Prevention Strategy, SAPS policing objectives and

priorities, and the SAPS firearm strategy. The study looks into the development of arms internationally and continentally. Internationally, focus was placed on Great Britain, the USA, New Zealand and Canada. Within the Southern African region the study focused on South Africa's neighbours, e.g. Botswana, Lesotho, Malawi Mozambique, Namibia and Tanzania.

3.2 Development of arms control internationally

Gun ownership appears to be a global phenomenon, and the whole world seems to have become gun owners. Almost all countries in the world have experienced gun problems in their developmental history. South Africa has low firearm ownership, internationally, and is comparable to countries like Costa Rica, Spain and Greece (Gamba, 2000:38). Gamba lists countries with high firearm ownership as Australia, Canada and Sweden. He argues that South Africa's problems lie in the high level of handgun ownership, which is easy to conceal and commonly used in violence (Gamba, 2000:38). The above statement is echoed by Cohen and Cantor (1980b:143) when they establish that the weight of movable property plays a significant role in the decision by an offender to target a property. They said pistols and revolvers weigh less and they can be concealed easily on a person's body, without drawing much attention to themselves.

Strict gun control is defined as an array of legally sanctioned restrictions designed to impose firearm scarcity on the general population. Stell (2004:38) is of the opinion that carefully crafted, well-enforced firearm control policies can contribute to marginal reduction in criminal violence. He is of the opinion that gun making policy to establish who has the gun, how they use their guns, and the incentive effects that gun policy can have on both 'who' and 'how' in the margin, are important to restrict firearms from at risk individuals . The ready availability of guns lies at the centre of South Africa's problem, despite its global position (Minnaar, 1998:01). According to Chandre and Lamb (2004:133), South Africa has the highest number of legally owned civilian firearm in the Southern region. They report that by middle 1996, there were 3 503 573 firearms in the hands of nearly two million people in South Africa. In 2004 the figure stood at 3 737 676 firearms in individual hands. A more acceptable level of control over firearms is crucial, to address proliferation of firearms in South Africa and its usage in violence.

Mere mention of the names of Thomas Hamilton, Port Arthur, Senator Robert F Kennedy, Reverend Martin Luther King Junior, Brady, David Gray, and Dunblane, revives images of indiscriminate killing sprees and massacres to the family of the deceased and, of course, the community. All those killing incidences were committed using licensed firearms that belonged to the perpetrator or their households. What disappoints most is the fact that, in all those incidents, the respective governments were pushed by gun lobbies and public pressure before they could initiate more stringent gun control. No country acted proactively to prevent losses, despite wide media coverage on the topic.

Countries such as Canada, Australia and New Zealand placed restrictions on handgun ownership, which has resulted in less gun-related crime incidents in those countries (Gamba, 2000:38). Stell (2004:39) indicates in his journal that countries known to have strict gun policies and for having lower gun crime prevalence than the United States, are Hungary, Denmark, Austria, Norway and France.

In 2001, Great Britain had 73 firearms murders within its 52 million populations (Gun Free South Africa, 2002:1). They report that strong gun laws in Great Britain have resulted in less firearm-linked murder cases. Australia, with its strengthened laws, had 65 firearm-related homicides within a population of about 20 million, in 2000.

Table 3.1 International firearm homicides and suicide rates

Country	Year	Total Homicides per 100 000	Firearm homicides per 100 000	Total suicides per 100 000	Firearm suicides per 100 000	Percentage households with firearms
Brazil	1993	19.04	10.58	3.46	3.13	9 (UN)
Mexico	1994	17.58	9.88	2.89	0.91	N/A
United States	1993	9.93	7.07	12.06	6.3	39
Northern Ireland	1994	6.09	5.24	8.41	1.34	8.4 (1989)

Argentina	1994	4.51	2.11	6.71	2.89	3
Canada	1992	2.01	0.35	31.16	2.51	N/A
Australia	1994	1.79	0.44	12.65	2.35	15.1 (1992_
New Zealand	1993	1.47	0.17	12.81	2.14	22.3 (1992)
Belgium	1990	1.41	0.6	19.04	2.56	16.5 (1992)
Switzerland	1994	1.32	0.58	21.28	5.61	27.2 (1989)
Sweden	1993	1.3	0.18	15.75	2.09	15.1 (1992)
Denmark	1993	1.21	0.23	22.33	2.25	N/A
Germany	1994	1.17	0.22	15.64	1.17	8.9 (1989)
Greece	1994	1.14	0.59	3.4	0.84	.03 (UN)
Spain	1993	0.95	0.21	7.77	0.43	13.1 (1989)

Source: Stell, L.K. (2004) United Nations (2000)

Studies show a direct link between rates of firearm ownership and rates of firearm-related death in developed countries. Ironically, rural Canada and the West, with the highest rates of firearm ownership and the most vocal opposition to gun control, are also the places with the highest rates of firearm deaths.

Table 3.1 indicates that Brazil and Mexico had the highest firearm homicides between 1993 and 1994, with Brazil leading at 10.58% and Mexico 9.88%. Greece and Spain had the least homicides with 1.14% and 0.95% respectively. With regard to firearm-related suicides, Switzerland overtook Brazil with 5.61%, while Brazil came second with 3.13%. Researchers believe that a later decline in reported violent crimes was as a result of firmer gun control policies that were implemented. Gun control development in some of the above countries will now be scrutinised.

3.2.1 Development of arms control in Britain

In 2001, Great Britain, a country of 52 million people, had exactly 73 firearm related murders (Quigley, 2003:2). He reports that publicly reported problems associated with illegal firearms in parts of England does not negate the fact that Great Britain, with its strong laws, is much safer than Canada, with respect to gun-related deaths and crime.

The British government had laws governing firearms, like any other country in the United Kingdom (UK). In 1996, Thomas Hamilton, who is known to have had sexual interest in young boys (psychopathology), massacred sixteen pre-school children and their teacher at the Dunblane primary school. This led to a demand to ban ownership in private hands, except for the Olympic pistols (Morgan, 1999:121). Morgan (1999:128) reports further that in response to the Dunblane massacre and the urgent public pressure for firearm regulation, firearms associations proposed that proper identification of “unfit persons” be emphasised by police’s firearms licensing officers regarding all firearm applicants. The Centre for Injury Control at Emory University, Georgia indicated that homes where guns are kept are almost three times more likely to be the scene of homicide than homes without firearms (Morgan, 1999:129). The British Medical Association (BMA) indicated, in their report to the British government on mental illness, that with regard to murderous and other anti-social behaviour, it is difficult to predict danger unless there is a strong history of psychotic illness linked to violent behaviour (Morgan, 1999:129).

It is important to note that Thomas Hamilton was a legal firearm owner who was identified via the legal existing licensing system as being fit and proper to own a private firearm. That was an indication that the British arms laws were flawed, hence they appointed institutions like the BMA and the Centre for Injury Control to assist in developing a stronger gun law.

3.2.2 Development of arms control in the USA

The first modern American gun law (Sullivan law) was enacted in 1911 after an attempt on the life of New York city Mayor, William Gaynor (Goss, 2006:107). The second law followed after the shooting of Senator Robert F. Kennedy and the Reverend Martin Luther King, Jr. in 1968 (Gun Control Act, 1968). In 1990 the state banned the sale and possession of assault rifles, prohibited possession to those under the age of 18 years, and held parents criminally liable for the gun-related actions of their children.

Throughout the 20th century, gun control has been advanced as a crime control tool in America. According to Goss (2006:108), the reasons for such gun control were due to the fatality that guns

cause in violence. In 1968 the US Conference of Mayors passed a firearms control resolution which prohibited the “the mail order sale” of firearms and ammunition, citing reasons that the process lacked proper control measures and has resulted in juveniles, individuals with criminal records and drug addicts owning firearms. (Goss, 2006:110).

Thousands of people are injured and killed by firearms in America on a yearly basis, while others use the firearms to defend themselves against violence (Siegel, 2005:40). Siegel (2005:40) is of the opinion that firearms play a dominant role in criminal activities in the USA. He reports that according to the 2003 Small Arms Survey, the United States has by far the largest number of publicly owned firearms in the world. He is of the opinion that handguns are linked to violent crimes and had by then contributed to 20% of all injuries and 60% of homicides and suicides in the USA. Siegel (2005:41) reports further that research by Mothey Miller and his associates in the USA indicates that in areas where households firearm ownership rates are high, a disproportionately large number of people die as a result of homicide. According to the National Crime Victimization Survey (NCVS), firearms are typically involved in 20% of robberies, 10% of assaults and 6% of rapes. The report indicates that in 2002 almost 70% of all murders involved firearms and, in particular, handguns (Siegel, 2005:40).

The Brady Bill was passed in 1994 to close loopholes in the Gun Control Act of 1968. The Brady Bill introduced federal background checks to help gun sellers in identifying high risk people (Goss, 2006:176). Goss reports further that the Brady Act was named after the press secretary who was fatally wounded in the assassination attempt on President Ronald Reagan in 1981. According to Misty, Minnaar, Redpath and Dhlamini (2002:53), the major shortcoming of this federal law is that it requires background checks only for purchases from federally licensed dealers, but not from private sellers. Accordingly, the Brady Act imposes a five-day waiting period before a licensed importer, manufacturer or dealer may sell, deliver or transfer a handgun to an unlicensed individual.

Sections in the Federal Gun Control Act which were not amended had the following people classified as at-risk individuals: people convicted of or under indictment for felony charges,

fugitives, the mentally ill, those with dishonorable military discharges, illegal aliens, illegal drug users and those convicted of domestic violence or restricting orders (Siegel, 2005:42). The above classification was criticized by Misty et al. (2002:54) for including substance abuse and excluding alcohol abuse. They believe alcohol has the same consequences as drugs. Siegel reports further that states in the USA were so serious about gun control that they introduced the Massachusetts Bartley-Fox law, which provides for a mandatory one-year prison term for possessing a handgun outside one's home, without a permit. They also limited commerce of guns, and put strict regulations at states with looser regulations on firearms (Wellford et al., 2004:38).

3.2.3 Development of Arms control in New Zealand

Firearms management dates back to the 1920s, in New Zealand. By 1921 all firearms were manually registered with the police. By 1980 this method proved to be outdated, as the state could not account for most weapons in possession of the public. Police recommended that the existing registration system be replaced with one in which gun owners were licensed with a lifetime licence, but shotguns and long guns no longer were registered.

In 1983 legislation was passed which did away with the registration of sporting long guns, which comprised 97% of privately held guns. The remaining 3%, which comprised handguns and restricted weapons, were still to be registered. This led to the reduction of crime with registered firearms, but an increase in unregistered firearms. In 1990 the massacre by David Gray led to the re-introduction of ten years interval re-licensing system. The police had to post letters to firearm owners on the expiry of their licenses. Those who failed to renew the licences within six months of receiving the mail, had their licenses revoked. Accordingly, many firearm owners did renew after a few revocations, and firearm-related violence did decline. As in South Africa, New Zealand requires background checks for criminal records and domestic violence convictions, psychiatric disorder, inadequate storage, records of assault or other violence, training certification, as well as character references (Misty et al., 2002:55).

3.2.4 Development of Arms control in Canada

Since 1934, Canada was registering all handguns and military weapons. Exemption was on rifles and shotguns. Criminals saw a loophole in the Act and crime weapons shifted from licensed firearms to unlicensed firearms. In 1998 the Firearms Control Act was passed which required all firearms to be registered within a year. In 1999, the Canadian Firearm Registry Online was made available to the police, providing them with information on firearm licence holders. After six months, law enforcement officers had accessed more than 150 000. Six months later, 1000 potentially threatening firearm owner's licences were revoked.

Domestic homicides, suicides and accidents, particularly those involving children, are particularly affected by the presence of guns in the home (Quigley, 2003:5). He reports that one of the most shocking pieces of research is the study by the Centres for Disease Control comparing the rates of children under the age of 15 killed with firearms. Based on 1996 data, Canada ranked fifth among industrialised countries, after Israel and Northern Ireland, in the rate of children killed with guns. In Saskatchewan and Alberta in that year, the rate of children killed with guns was as high as in Israel and Northern Ireland combined (Quigley, 2003:3).

Quigley (2003:41) is of the opinion that firearm regulation, licensing and registration may not prevent gun ownership, but it does discourage casual gun ownership and it reinforces a sense of responsibility among gun owners. Quigley also indicates that regulating legal firearms reduces diversion of firearms to illegal markets, because the linkage between licensing and registration are intended to keep legal firearms in the hands of legal firearm owners. Quigley (2003:48) reports that strict firearm legislation in Canada reduced murder with firearms drastically, in comparison to the USA. Quigley reports further that the gap between the murder rate in Canada and the USA is the strongest efficacy of gun control. When comparing murder without guns in Canada and the USA, the rates are comparable. The USA rates are less than half of those twice in Canada. But the rate of murder by firearm in the USA is eight times higher than in Canada and the murder rate with handguns is 14.5 times higher (Quigley, 2003:57). Canada's highest court unanimously upheld the law and reinforced the link between licensing and registration. The licensing provision requires everyone who possesses a gun to be registered in line with the Canadian parliament's goal of promoting safety by reducing the misuse of all firearms (Quigley,

2003:61).

Canada's efforts to effectively regulate firearms were not in vain. Quigley (2003:58) reports that gun deaths, injuries and other crimes involving firearms have dropped, and were regarded to be the lowest in the 30-year period before 2001. Quigley gives credit to both the 1991 and 1995 laws which, he is of the opinion, led to the drop in firearm-related crime by two-thirds to 0.15 per 100 000 in 2001. Quigley applauds the Canadian government for their billion-dollar firearm registry system. He said the money well spend because it led to a dramatic decline in murders with rifles and shotguns (Quigley, 2003:58)

3.2.5 Development of Arms in Australia

According to the ISS (2005), there have been two critical periods in the development of Australian gun laws. The first period was 1987-1995, when a number of public mass shootings occurred in different parts of Australia, leading to legislative change in some of the Australian states, and also at a national level. The second period commenced soon after the Port Arthur massacre in 1996 and was the beginning of uniformity in regulation of firearms across Australia.

Until the Tasmanian parliament promulgated the Guns Act, 1991 (which came into force on 1 January 1993), regulation of firearms was virtually non-existent in some of the Australian states (ISS, 2005). They report that, under the regulatory regime prior to the introduction of the 1991 Act, a person merely needed to be over 16 years to purchase any long arm, and was otherwise not permitted to fire the weapon within a town boundary. The Tasmanian Firearms Act, 1932 was repealed by the Guns Act, 1991 which only regulated pistols. Firearms other than pistols were subject to a few miscellaneous provisions in the Police Offences Act, 1935.

The defining moment for gun control in Australia and in its smallest state, Tasmania, was the April 1996 massacre at Port Arthur when 35 people were shot dead and 18 injured (ISS, 2005). The ISS (2005) report that by 1998 each state had already enacted tighter laws in respect of firearm licensing, compulsory registration and storage requirements thereof, together with a total ban on military and military style rifles and shotguns. They report further that Australia's

firearms control laws are a product of the nation's constitutional arrangements. According to their report, Australia consists of six states and two territories (ISS, 2005). Those states and territories ('the states') are responsible for virtually all firearms control, such as licensing, registration and bans on particular weapons. However, the federal government has certain areas of responsibility, including exclusive control over the import of firearms and ammunition into Australia and the use of firearms for defence purposes (ISS, 2005).

The ISS (2005) are of the opinion that even the 1993 Guns Act was not controlling firearms adequately. They argue that even if it was the first legislation to require licences for long arms, it was not screening prospective firearm applicants. Apparently it failed to require registration of long arms or prohibit high-powered semi-automatic long arms, or even to require a person to have a good reason (or any reason) to use or possess a firearm. Sports Shooters were even given lifetime licences.

In October 1991 the Australian Police Minister's Council (APMC) held a special meeting to discuss gun control. They considered and adopted recommendations for uniform gun laws that in many ways implemented the National Committee on Violence recommendations. The National Committee's recommendations were: A ban on the sale of all military and military-style semi-automatic firearms, except for "government and government approved" purposes; a special licence to be required for possession of other centre-fire semi-automatic and self-loading shotguns - for example, the more expensive (but equally deadly) weapons made for hunting; a "stringent" (but totally undefined) test of "need" was agreed to; and a ban on the sale of self-loading weapons with detachable magazines holding more than five rounds. Licensing for other classes of long guns was based on: A genuine reason to own; national character checks on licence applications; and licences to be based on "appropriate qualifications and training".

What the 1991 Act did achieve was the creation of offences for firearm misuse and the enactment of penalties for such misuse (ISS, 2005). It also mandated registration of fully automatic firearms and gave the power to the Minister of Police to ban categories of firearms. The next legislative change was in 1996, following the Port Arthur massacre.

The ISS (2005), on the contrary, report that the impact of the Firearms Act of 1996 has been effective. The ISS are of the opinion that tighter legislation, backed by determined law enforcement, has reduced the population of firearms in Tasmania and limited access to those firearms. Statistics that were examined indicated that substantial reductions have occurred in the use of firearms to commit violent crime and suicide. They report that there has been a similar lessening of hospital admissions for gun trauma, particularly as a result of accidental shootings. Theft of firearms has also been lowered, with an upswing in the proportion of stolen firearms recovered. Since 2001, almost 6,000 firearms have been surrendered to police and subsequently destroyed. The report went on to consider problems in enforcing the 1996 legislation, directed at failure to adequately assess the mental condition of licence applicants, inadequate inspection of storage conditions and the identification of inadequacies in the operations of the Firearms Services Branch of the Tasmanian police and the firearms database.

The ISS (2005) further report that in terms of public advocacy, the effects of the positive findings of the report were significant. Auditors-general are highly regarded in Australia and are perceived as being independent and ensuring the accountability of the actions of government. Special Report No 55 was instigated by the auditor-general and presented to the parliament of Tasmania. As such, the report was beyond reproach.

According to the ISS (2005), The National Committee on Violence report recommended the following resolutions: licences to last six years, except for the lowest class of licence in Queensland and Tasmania, which would still be issued for life; a 28-day cooling-off period between applications and issuing of the licence; guns and ammunition to be stored separately and securely; and compulsory confiscation of guns on domestic violence call-outs or breach of licence conditions.

The ISS (2005) report that against that background there was a process of data compilation. They report that Gun Control Australia began producing a series of publications examining weapons and violence and gun massacres in Australia. These publications broadened the debate and examined the range of issues surrounding insufficiently controlled firearms, such as violence towards animals, influences on children, the political process of gun law reform, the gun lobby

itself and the costs of violence in Australia (ISS, 2005). The publications on gun massacres in Australia brought together information surrounding the perpetrators, the victims and, significantly, the type of weapon used in the course of each event. This particular publication led to a focus on military style semi-automatic rifles, which were being used in most of these massacres. At an academic level, publications on firearms law reform were rare before 1996, and in fact, continue to be so.

The ISS (2005) report that the auditor-general set up a committee to provide input into the audit methodology. That committee consisted of the auditor-general, Tasmanian police and the Faculty of Law of the University of Tasmania. Gun control advocacy groups, victims groups or shooters groups were not invited to serve on the committee. The significance of this report, from the point of view of gun control advocacy, has been summed up by the auditor-general himself, as follows: Is the Tasmanian community safer since the Firearms Act 1996 came into force? One of the alarming findings of the auditor-general's report has been a steady increase in the number of firearms in the Tasmanian community. In the 1997/98 period there were approximately 90,000 firearms in Tasmania. By 2003/04 the number had increased to almost 120,000. Yet, during the same period the number of firearm licences had dropped to its lowest level in eight years, down to 38,000 from a high of 45,000. This means that while there are fewer licensed firearm owners in Tasmania, each firearm owner is holding more and more firearms (on average).

3.3 Development of arms control in the Southern African Region

In 1996, through the Organisation of African Unity (OAU), African countries committed themselves to investigate ways of reducing small arms proliferation. In 2000, the OAU countries adopted the Bamako declaration on an African position on the illicit proliferation, circulation and trafficking in small arms and light weapons. (Gould & Lamb, 2004:227). They further report that on 14 March 2000, South Africa ratified the Southern African Development Community (SADC) protocols on the control of firearms, ammunition and other related matters. SADC protocols commit SADC states to a legally binding regional small arms control policy to be implemented throughout the Southern African Regional Police Chiefs Cooperation Organisation (SAPPCCO). SADC protocols require states to enact legislative measures to control ownership and use of firearms, and to establish regional information databases.

The number of firearms in civilian hands and strong pro-gun lobbies propelled the SAPS to begin implementing all provisions of the FCA in an effort to exercise more stringent control over civilian small arms. The FCA was drafted with South Africa's international and regional commitment to small arms control in mind, which attempts to address small arms proliferation in South Africa and in the Southern African region. The Firearms Control Act 60 of 2000 (FCA), the National Conventional Arms Control Act of 2002 and the explosive Act of 2003 conform to the SADC protocol in terms of the following categories:

1. Control of civilian possession and use;
2. record- keeping, marking and tracing;
3. import, export and transit;
4. brokering;
5. manufacture;
6. trade;
7. seizure, disposal and enforcement;
8. arms embargoes (sales of arms are controlled by national conventional arms committee);
9. state-owned firearms;
10. penalties.

It has been argued that when a country regards access to guns as a basic right of its citizens, this makes it hard for neighbouring societies to introduce or enforce strict controls on such weapons (Gun Free SA, 2003). They report that this has also placed a responsibility on South Africa - which is the strongest state in the SADC region - to consider the impact of its considerable legal firearm proliferation on its neighbours. Already there is substantial evidence that firearms leave South Africa for neighbouring countries. South Africa is a major supplier of legal weapons to individuals in Lesotho and Mozambique, many of whom travel to South Africa to buy a firearm, as their own countries do not sell firearms (Gould & Lamb, 2004:103). Botswana's Police Commissioner is of the view that the increase in armed robberies in Gaborone can be linked to the flow of firearms from South Africa, and in Malawi many weapons confiscated by the police are manufactured in South Africa (Gun Free SA, 2003).

Other Southern African region countries also committed themselves to the reduction of small arms proliferation. Here is a brief overview of their arms control development:

3.3.1 Arms control in Botswana

Botswana has a population of 1.7 million and shares boundaries with Namibia, South Africa, Zimbabwe and Zambia (Gould & Lamb, 2004:23). In comparison to other Southern African countries, Botswana does not have many problems with the proliferation of small arms (Gould & Lamb, 2004:23). It is believed that a careful blend of traditional and civil law, coupled with a general respect for the law, is behind that. According to Gould & Lamb (2004:23), few incidents of licensed rifle and shotgun usage in domestic violence were reported.

Gould and Lamb (2004:28) report that Botswana banned ownership of handguns by private citizens in 1990 in an amendment to the Arms and Ammunition Act. Accordingly, only a few individuals still own handguns that were licensed prior to the amendment. The Botswana Arms and Ammunition Act of 1979 allow a maximum of three firearms per person. The Act also allows a maximum of 400 hunting licences to be considered each year. According to Gould and Lamb (2004:28), civilians who apply for a permit to own a firearm are entered into an annual raffle system conducted by the police. From the one thousand applications received, 400 are chosen randomly for consideration. The chosen 400 are then screened, and those who have no history of mental illness, no criminal record and are over the age of 18 years, are granted a permit. Accordingly, of the 400 licences issued, 200 will be for rifles and 200 for shotguns. If a firearm owner dies, the family meet in a traditional way to decide who will inherit the gun, before the new owner applies for a permit. The Botswana Arms and Ammunition Act allow an individual to purchase a maximum of 100 live rounds of ammunition per year.

In spite of the strict regulations and control of firearms, Botswana is experiencing an increase in firearm-related crimes such as robbery, murder, domestic violence and poaching (Gould & Lamb, 2004:30). Gould and Lamb report that the president of Botswana, Festus Mogae, indicated in his 2001 speech that 142 firearms were used in criminal activities that resulted in

loss of life or serious injury, including 51 murders, 29 suicides and 26 attempted murders. The president is reported to have ascribed most of the firearm-related incidents to illegal firearms brought in from South Africa and Zimbabwe (Gould & Lamb, 2004:33). In April 2002 the government of Botswana established a National Focal Point on Small Arms and Light Weapons, chaired by the deputy commissioner of the police, to look into the gaps in national legislation and regulations. 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, 2004:37-38).

3.3.2 Arms control in Lesotho

Lesotho, with a population of two million, is completely surrounded by South Africa (Gould & Lamb, 2004:50). Gould and Lamb (2004:54) report that Lesotho has undergone intense political conflict and turmoil during the past government changes. Firearms in Lesotho are regulated under the Internal Security (Arms and Ammunition) Act no. 17 of 1966. According to Gould and Lamb (2004:65), the extend of stock theft led to a feeling of insecurity among Lesotho people to the extent that many believe that they have to be in possession of a firearm to protect themselves and their properties. They report that this led to Lesotho having so many firearms in circulation. The Lesotho firearms Act prohibits the purchase of firearms and ammunition by people under the age of 18, alcoholics, mentally disturbed people, people with criminal records for offences involving violence and who have been sentenced to six months or more months in jail. They report that those convicted may not possess firearms for a period of five years after their release from prison.

The application process entails that the prospective firearm applicant must obtain a letter from the village chief or headman, which confirms citizenship and supports the application. S/he will then fill in the application forms that will despatched to the National Security Services for a background check on the applicant, before being referred for consideration by the Firearm Board which sits once a quarter (Gould & Lamb, 2004:66). Further, firearm certificates must be renewed annually so that gun owners can be monitored after they have obtained a firearm (Gun Free SA, 2003).

The penalties for contravening the provisions of the Internal Security (Arms and Ammunition) Act (1966) were increased through the adoption of the Internal Security (Arms and Ammunition) Amendment Act (4/1999) (Gould & Lamb, 2004:65). The penalty for purchasing or possessing a firearm or ammunition without a certificate, or making a false statement when applying for a firearm certificate, carries a penalty of a minimum of M500 (US\$ 74.45) or a maximum imprisonment of six months, or both; usage of a firearm or ammunition with intent to endanger human life or property, carries a minimum sentence of five years' imprisonment; failure to renew a firearm certificate carries a penalty of M10 (US\$1.49) for each month that the offence continues (Gould & Lamb, 2004:65).

In an attempt to control proliferation of firearms, the government established a counter-crime unit in March 1999, to search for unlicensed firearms and check for unexpired firearms. The unit found that the renewal of firearm licences was not actively enforced, which meant that formerly legal firearms became illegal (Gould & Lamb, 2004:66). Like Botswana, Lesotho does not have many problems with legal firearms. Their problems lie with illegal firearms from South Africa, which was exacerbated by the withdrawal of the South African National Defence Force (SANDF) from Lesotho borders in 1992.

3.3.3 Arms Control in Malawi

Malawi is a densely populated country of 11.6 million people, bordering Tanzania, Zambia and Mozambique (Gould & Lamb, 2004:80). The Malawi Firearms Act of 1967 regulates who may have a firearm and how those firearms may be used. According to Gould and Lamb (2004:82), the Act lists the following requirements for a firearm licence applicant: the applicant must not be a person of intemperate habits or unsound mind; there must be a declaration by the applicant that he will keep his firearm and ammunition secured; and also, the applicant must commit himself that he will at all times take precautions to prevent loss or theft and not avail the firearm to any person not entitled to it. They said that in addition to the above requirements, two referral letters from the community elders, recommendation by the senior police officer from the area where the applicant resides and a set of the applicant's fingerprints must accompany the application. They

report that most firearms applied for are rifles and shotguns, in line with the government's restrictions on handguns (Gould & Lamb, 2004:66).

Since the election of 1994, Malawi has experienced a marked increase in organised crime, which is believed to be due to a lack of resources to improve policing and crime prevention (Gould & Lamb, 2004:80). They report that most firearms in Malawi are believed to come from Mozambique. There was an estimate of 30 000 civilian firearms in Malawi by 1996.

The Central Firearms Registry of Malawi maintains a manual recording system and is not monitoring licence renewals adequately, due to a lack of resources (Gould & Lamb, 2004:90). It is reported further that identification of firearms is also a problem due to scarcity of reference books and the absence of proof marks on firearms and ammunition found at the scenes of crime. Malawi is a signatory to the SADC firearms protocols, the UN programme of action and the Bamako Declaration, but their legislation is not compatible with those requirements and needs to be reviewed (Gould & Lamb, 2004:91).

3.3.4 Arms Control in Mozambique

Mozambique has a population of approximately 18, 5 million and shares borders with South Africa, Swaziland, Zimbabwe, Zambia, Malawi and Tanzania. Mozambique was clouded by civil war between the ruling party Front For Liberation of Mozambique (FRELIMO) and the Mozambique National Resistance (RENAMO) from the time of its independence in 1974 until 1992 (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. The only available data from the licensing department indicates that there were 7000 registered legal owners in 2003 (Gould & Lamb, 2004:95).

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). According to Gould and Lamb, there are no firearms dealers in Mozambique. They report that people intending to own firearms are allowed to import a maximum of three firearms from other countries. Accordingly, a potential buyer will visit a neighbouring country, buy a firearm from a

legal firearms dealer, take the firearm to the border and surrender it to the customs office. A licence application will be submitted to the relevant office for processing. If turned down, refusals are communicated via collective responses, to discourage the community from acquiring firearms. (Gould & Lamb, 2004:98).

The crime rate has increased between the 1994 democratic elections and 1996, from 30 579 to 42 967 (Gould & Lamb, 2004:100). According to an official in the Department of the Interior, guns used in crime are mainly leftovers from the war and the others are leased from people who own them legally. Control of firearms is reported to be poor, because no proper records are kept of who owns what arms (Gould & Lamb, 2004:106).

Mozambique signed a SADC protocol in August 2001, on control of small arms and light weapons. 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 small arms control in Mozambique. One of the findings was that the arms control legislation was outdated, 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 protocols (Gould & Lamb, 2004:109). Disarmament initiatives such as Operation Rachel were launched in 1990 between South Africa and Mozambique, to identify and destroy arms caches, followed by the TAE programme in 1995 which was collecting voluntary weapons in exchange for items such as building materials, agricultural implements, sewing machines and bicycles. TAE has destroyed over 7000 small arms and light weapons thus far.

3.3.5 Arms Control in Namibia.

Namibia has a population estimated around 1 927 447, and shares boundaries with Angola, Zambia, Botswana and South Africa (Gould & Lamb, 2004:115). It was for many years colonised by Germany and later South Africa, but attained its independence in 1990. Gould and Lamb report that hunting and sports shooting are dominating firearm usage in Namibia.

Their policy on firearms has many similarities to the South African firearms policy, in particular the Arms and Ammunition Act, 75/1969 which is believed to have been instrumental in the aligning of Namibian gun policy. The Arms and Ammunition Act of 1996 regulates civilian firearm ownership. According to Gould and Lamb (2004:99), the Act requires that the applicant must be 18 years or older, not be declared unfit by the Namibian Police Force, not to have committed a violent crime, not be inclined to violence, not be dependent on drugs or alcohol, and be mentally fit. They say there are no renewal processes, and the number of firearm-related crimes is very low (Gould & Lamb, 2004:99).

Gould and Lamb (2004:125) report that Namibia is a signatory to the following international and regional agreements on small arms and light weapons: UN programme to combat, prevent and eradicate illicit trade in small arms and light weapons; Bamako declaration; SADC protocol, and the Southern African Regional Police Chiefs Co-ordinating Organisation. They further report that a national conference was held in Windhoek from 7-9 October 2002, to lay the foundation for the implementation of the above agreements. A five-year plan of action was compiled to see the process through. Namibia was criticised in 2004 for its failure to sign the SADC protocol on firearms. This indicates that they did not take the regional firearms control initiatives seriously (Gould and Lamb, 2004:125). The Namibian Arms and Ammunition Act was generally regarded to be thorough, but was criticised by the Geneva-based small arms survey in 2003 for not requiring applicants to undertake firearm competency tests. The Namibian electronic firearm database was only created in 1998 and was not reconciled with the manual database (Gould & Lamb, 2004:128). They believe that such a failure makes it difficult to establish the involvement of legal firearm in crimes.

3.3.6 Arms control in Zimbabwe

Zimbabwe was formerly known as Rhodesia and was a British colony until 1965, under White government (Gould & Lamb, 2004:301). They report that two liberation movements, the Zimbabwe African National Union (ZANU) and the Zimbabwe African People's Union (ZAPU) were created to bring White government to an end. In 1980 Zimbabwe became independent, with the Zimbabwe African National Union -Patriotic Front (ZANU-PF) headed by President Robert

Mugabe (Gould & Lamb, 2004:302).

Gould and Lamb report that prior to Zimbabwe's independence in 1980, many Whites and Coloureds owned firearms for personal protection and other activities like sporting. They report that due to the liberation struggle, many firearms were unaccounted for, and the state had to declare a three-month' amnesty for the surrendering of weapons. The amnesty attracted mostly liberation allies from the armed wing of ZANU-PF, the Patriotic Front Zimbabwe African People's Union (PF-ZAPU), and the Zimbabwe People's Revolutionary Army (ZIPRA).

Violent crimes such as household robbery and car hijacking continued to increase even after the amnesty, and that prompted residents, especially Blacks, to seek firearms for self-protection (Gould & Lamb, 2004:312). A safer world report estimates Zimbabwean firearm owners to be 400 000, and 125 registered firearms dealers (second after South Africa in the region, with firearms dealership). The purchase, possession, manufactures and sale of firearms is regulated by the Firearms Act of 1957. The Act only regulates civilian firearm ownership and does not make provision for the state-owned firearms. The firearm application process entails the applicant approaching the police station with relevant documents from a firearm dealer. Police scrutinise the application form and the firearm, assess the mental state of the applicant, and, if satisfied with the whole process, forward the application to the regional registrar of firearms, who will verify correctness before forwarding the application to the Controller of firearms in Harare. If all the requirements are met, a licence is issued which specifies conditions under which the firearm may be held, and how much ammunition can be purchased or held at a time (Gould & Lamb, 2004:313).

The safer world report indicates that the Firearm Act of 1957 has been amended several times, but is not yet in line with the provision of the international arms control agreement (Gould & Lamb, 2004:314). The report indicates further that the Act does not make enough provision for renewal of firearm licences. Zimbabwean police are very strict with statistics and it could only be ascertained through safer world that violent crime was on the increase, with mostly illegal firearms used. The Firearm Registry could not provide data on firearm loss/theft in Zimbabwe.

It can therefore not be ascertained whether the Zimbabwe Firearms Act is effective or not.

3.3.7 Arms control in Zambia

Zambia has a population estimated at 9.98 million people, and shares boundaries with Mozambique, Democratic Republic of Congo, Angola, Namibia, Zimbabwe, Malawi and Botswana (Gould & Lamb, 2004:286). In 2003 there were 86 642 firearm licences in Zambia, which comprised 43 295 shotguns, 32 277 rifles and 11 070 pistols (Gould & Lamb, 2004:286). They report that the above figures serve as an indication that firearms are used mostly for hunting and sporting, rather than for self-protection.

Gun Free South Africa (2002) reports that it is a requirement to renew firearm licences every three years, in terms of Zambia's Firearms Act. In issuing licences, police assess the fitness and competence of the applicant to handle a firearm, and applicants may not be under 21 years. The Act also specifies the quantity of ammunition that licensed individuals may have in their possession and may acquire on an annual basis.

Gould and Lamb (2004:287) report that in order to reduce the number of illegal firearms in circulation, the police have offered amnesty from prosecution to anyone surrendering firearms to them, at a price tag of US\$40 per firearm. They report that a lack of funds has hampered the success of the amnesty programme which netted only 2500 firearms which were mostly unserviceable or of inferior quality. To sum up the Act, Gould and Lamb believe that many of the Act's definitions are out of date, its penalties need revision, firearms record keeping requirements are inadequate, and import and export and transit permits are outdated. The report from Safer world proposes that the Act be reviewed as a matter of urgency (Gould & Lamb, 2004:296).

3.4 Historical development of firearms control in South Africa

Guns have always been a feature of the South African landscape over the past fifty years (Kirsten, 2005:107). Kirsten is of the opinion that guns were loosely distributed by the apartheid government to the young White conscripts to defend the nation, and also to the White

commandos who were spread all over the country with loads of firearms. To many people, guns were important weapons in maintaining the border between the oppressed and the oppressor, with black South Africans being refused an opportunity of owning firearms during the apartheid era (Kirsten, 2005:108). Firearm manufacturing began in South Africa after World War II with the financial support of Great Britain (Gould & Lamb, 2004:199). They report that the company's primary role was to supply the Union Defence Force with ammunition. After the Soweto uprising, the United Nations Security Council banned the supply of firearms to South Africa. This led to withdrawal of financial support to South Africa, and eventually the establishment of companies such as Denel, whose primary role was to supply state forces with armaments. Many more dealers emerged later as private dealerships (Gould & Lamb, 2004:200).

According to Meek (2000:4), South Africa has a long history of weapons, both among Whites and Africans - notably Zulus with their traditional weapons. She reports that in South Africa weapons are viewed positively and regarded as the means by which independence was won. Minnaar (1998:14) reports that the long political battle in South Africa has resulted in an increased culture of violence and individual aggression, and the criminal attitude of no respect for human life. He is of the opinion that the situation was exacerbated by the ease with which both legal and illegal firearms could be acquired. Beneath its harsh, armoured exterior, White South Africans were still beset by a deep insecurity (Gould & Lamb, 2004:204). They report that for a white South African, the gun has always been the key to survival in times of crisis. The massive arming of the state in recent years has been paralleled by the arming of the citizens (Gould & Lamb, 2004:204). They are of the opinion that today's White South Africans possess more firearms per head of population than any other people in the world. They say there are almost two million privately owned firearms in circulation and almost all owned by Whites. They report further that to ensure maximum armaments by the Whites, the following happened after the 1976 uprising: the East Rand Bantu Affairs Board established a R20 000 gun fund to enable its White employees to purchase personal arms; South African Railway sold .303 rifles to its White staff at a cost of R7 each. That was just a process of ensuring that every White person was armed.

It would seem as if the state also contributed massively to the proliferation of firearms in South Africa. According to Meek (2000:7), in 1976 the South African government released its defence paper called Total Strategy which was meant to arm resistance movements in Mozambique, Angola and Namibia, to suppress communism. In the 1980s the South African government supplied 3 000 weapons to the former homelands, TBVC states, government officials and traditional leaders, while more than 60 tons were given to the Inkatha Freedom Party (IFP) (Meek, 2000:9). Accordingly, no record was found of those firearms in 1995 when the government attempted to retrieve them (Meek, 2000:10).

In response to the South African government's armed resistance movements inside and outside the country, freedom fighters also armed Self defence units (SDU) and Self protection units (SPU) with firearms (Minnaar, 1998:6). Minnaar reports that the disbandment of those SDU and SPU structures in the post-1994 struggle did not provide for processes for the disarmament of those units. He reports further that after the withdrawal of political and financial support by the freedom fighters, many SDU and SPU members turned to crime to survive economically (Minnaar, 1998:6).

After 1994, South Africa was accepted as a member of the OAU and was accepted internationally. In the 1996 OAU conference, all South African region countries, including South Africa, committed themselves to investigate ways and means of reducing small arms proliferation (Gould & Lamb, 2004:227). They report further that the Minister of Safety and Security, Sydney Mufamadi, commissioned a committee to investigate corruption and poor management at the Central Firearms Control Register. Among others, irregular licensing procedures were found to be a problem, by the chairperson, Sheena Duncan. This led to structural change in the management at CFCR and, eventually, to the compilation of the Firearms Control Act (FCA).

3.5 Legislative basis for the introduction of the Firearms Control Act.

The legal framework for the establishment of the FCA can be traced back to the Constitution of South Africa, the SAPS Act 68 of 1995, the National Crime Prevention Strategy (NCPS) of

1996, the White Paper on Safety and Security, and the Arms and Ammunition Act 75 of 1969.

3.5.1 The Constitution of the Republic of South Africa

Sections 11 and 12 of the Bill of Rights in the Constitution of South Africa protects the rights of all people in South Africa, gives them the right to life, and the right to be protected from violence. Section 7 (2) of the Bill of Rights stipulates that the state must respect, protect, promote and fulfil the rights in the Bill of Rights. The Bill of Rights applies to all laws, and binds all legislature, the executive, the judiciary and all state organs, according to section 8 (1). Despite that, many people still die as a result of irresponsible firearm usage. Spitzer (1998:xii) rightfully indicates that the gun debate revolves around the relationship between the citizen, the state's power to regulate, and the maintenance of public order.

The rights stipulated in the Constitution are aimed at ensuring safety by protecting citizens and obliging the state to provide adequate security from those who perpetrate crime. According to Bruce (1998:2), the new Constitution of the Republic of South Africa was approved by the Constitutional Court late in 1996 and came into operation early in 1997. Section 206(1) of the Constitution requires that national legislation must provide for a framework for national policing policy, taking into account the policing needs of the country. Section 205(3) of the Constitution stipulates the objectives of the country's police service - the SAPS. Section 12(1) of the Constitution gives everyone within the Republic the right to freedom and security of the person.

Chapter 2 of the Bill of Rights, section 12 (1) states that everyone has the right to freedom and security of the person, which includes the right (a) to be free from all forms of violence from either public or private sources. Section 36 (1) (d) allows for the limitation of the rights in terms of general applications based on human dignity, equality and freedom. Without derogating from the good intention of the Constitution, a right to possess firearms has been limited to responsible hands because of the danger that firearms pose.

The parliament of the Republic of South Africa upholds the rights of South Africans and all those who live in it - which includes 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 from either public or private sources. In fulfilling its obligation, Parliament enacted the FCA to enhance 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 ensure efficient monitoring and enforcement of legislation pertaining to control of firearms.

3.5.2 1998 White Paper on Safety and Security

The White Paper on Safety and Security (1998:i) provides the department of Safety and Security with the means of realising their vision and improving safety of South African citizens. The paper views the concept of Safety and Security in terms of two components, namely, policing and law enforcement and crime prevention, particularly social crime prevention. The objectives of the White Paper are, among others, strategic priorities to deal with crime and the role of safety and security within the constitutional framework. The rights enshrined in the Constitution of South Africa aim to ensure safety by, among others, providing adequate security from those who perpetrate crime. (White Paper on Safety and Security,1998:4). By implication this means that policing in a democracy requires a concerted effort by government to prevent crime before it occurs.

To enable a concerted crime prevention approach, the White Paper on Safety and Security provides for the establishment of the National Crime Prevention Strategy (NCPS). The NCPS, which framed the contents of the White Paper, identified proliferation of arms as one of the main causes of crime (White Paper on Safety and Security, 1998:8). Crime prevention, particularly social crime prevention, as highlighted in the White Paper, does not only target causes of crime, but also addresses factors that contribute to the occurrence of crime. It does so by focusing on three broad target areas, which include offender-based strategy focused on those known to be criminals, or thought to be at-risk of offending, and aims to ensure positive behavioural change (White Paper on Safety and Security, 1998:20).

In addressing factors that cause crime, the White Paper suggests that social crime prevention

strategies falls under one or more of the following broader categories. Among the categories is situational crime prevention, which is aimed at diminishing opportunities for crime by modifying the situations in which offending occurs. This encompasses crime prevention through environmental design, focusing on making the built environment less conducive to crime, by improving surveillance mechanisms through better lighting, and designing systems to restrict the availability and use of firearms (White Paper on Safety and Security, 1998:21).

3.5.3 The South African Police Service Act 68 of 1995

The Interim Constitution of the Republic of South Africa Act 200 of 1993 made provision for the establishment of the police, hence the South African Police Service Act 68 of 1995, in terms of section 214(1) of the Constitution. The object of the Police Service is to prevent, combat and investigate crime, maintain public order, to protect and secure the inhabitants of the Republic and their property and to uphold and enforce the law.

The latter refers to all laws passed by the parliament of South Africa, of which its political head (Minister of Safety and Security) is an executive member. The Constitution requires the executive member responsible for Safety and Security to come up with ways and means of fighting crime in South Africa, hence the drafting of the White Paper on Safety and Security and the establishment of the Firearm Control Act (FCA) 60 of 2000.

3.5.4 The 1996 National Crime Prevention Strategy

The South African government adopted the National Crime Prevention Strategy in 1996. According to Mufamadi (1995:2), the NCPS provides a framework for a multidimensional approach to crime prevention. The cornerstones of the NCPS are the multidimensional approach to problems of crime control, and crime prevention.

In 1996 the government of South Africa adopted an NCPS which provided a framework for a multiple approach to crime-fighting strategy. Among others, the aims of the NCPS were to set programmes in place that would address factors which create risk of offending, and factors that create a risk of victimisation. According to the International Centre for Crime Prevention,

persistent offending is increased by child poverty, blocked opportunity for growth, lack of services in residential areas and substance abuse. They said, among others, that handgun availability increases the likelihood of victimisation. International patterns indicate that crime increases rapidly during periods of political transitions, as in the case of Eastern Europe in the final days of the former Soviet Union, and in Namibia just before and after independence.

In South Africa, the shift in government from an apartheid regime to a democracy resulted in the destruction of social control. The state's law enforcement agencies were incapable of repressive control. The NCPS also had its focus on addressing the easy accessibility of firearms. The document was aimed at controlling and regulating the issuing of firearm licences. To attain that, existing firearm legislation were reviewed, gun owners trained and the general public educated.

According to the NCPS document, there are five causal factors influencing the proliferation of firearms in South Africa. They are:

- The local production of small arms which are marketed locally in most instances.
- Ownership of licensed weapons which was estimated at 3, 95 million firearms for 1.8 million owners in 1994.
- The illegal trade of arms from neighbouring countries such as Mozambique, Swaziland, Angola, Namibia and Botswana.
- Leakage from the State Armoury, mostly former Bantustans.
- Private security firms, due to maladministration and theft.

Based on the above findings, the SAPS initiated an operation to curb smuggling and possession of illegal firearms. That included:

Improving control over SAPS / SANDF owned weapons.

- Improving enforcement of control over legally owned licensed firearms.
- Entering into partnership with bodies like South African Gun Owners Association and the South African Firearm Dealers Association.
- Establishment of firearms units in the former TBVC areas.

The NCPS was put on the shoulders of the directors-general of the departments, for

implementation.

3.5.5 The Firearms Control Act.

According to Snyman (1995:5) law is traditionally subdivided into two categories, namely public law and private law. Public law deals with the relationship between the state as an authoritative power and the subject of the state, with the relationship between different states. Public law is further subdivided into constitutional law, administrative law and criminal law. The FCA 60 of 2000 is part of public law.

According to the Centre for Human Dialogue (2006:4), small arms and light weapons in wrong hands can be tools of oppression used to commit violation of human rights, thereby infringing the constitutional right to life. The protection of this right imposes both the positive and the negative duty on states, which in essence means that the government must enact laws that maximise the protection of life.

Under international human right law, governments have a duty to prevent patterns of abuse committed by means of private arms. Failure by government to protect the community in that regard amounts to “due diligence” which can amount to violation of human rights law. UN special reporter, Barbara Frey, is of the opinion that “due diligence” requires the state to erect minimum safeguards and control on the ownership and use of guns.

South Africa also has a background where firearms were licensed without “due diligence”. Firearms were regulated by the Arms and Ammunition Act, which was more of a pick, pay and get a licence. In 1996, the Minister of Safety of Security, Sydney Mufamadi appointed a special task team to investigate the legislation regulating firearm, the administration of the CFCR and the Policy on the issuing of licences. Feedback from the task team led to the Minister of Safety and Security assembling a team to draft the new firearms Act to better regulate firearms. The FCA was then drafted to replace the out-of-date and much modified 1969 Arms and Ammunition Act (Meek, 2002:1).

In 2000 the parliament of South Africa passed the FCA to enhance police and the courts to deal

effectively with firearm-related violence. The FCA was implemented in phases and was fully implemented on 1 July 2004.

The purpose of the FCA is, among others, to:

- 1 enhance the constitutional rights to life and bodily integrity;
- 2 prevent the proliferation of illegally possessed firearms, by providing for the removal of the firearms from society and by improving control over legally possessed firearms, to prevent crime involving the use of firearms;
- 3 enable the state to remove illegally possessed firearms from society, to control the supply, possession, safe storage, transfer and use of firearms and to detect and punish the negligent or criminal use of firearms;
- 4 establish a comprehensive and effective system of firearm control and management; and
- 5 ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.

3.5.5.1 The FCA in restricting ownership to at-risk individuals

The FCA introduced an additional control or monitoring leg in the form of a competency certificate to firearm applicants. The competency certificate is a requirement for all people who by virtue of ownership handle firearms or merely handle firearms in the execution of their duties, e.g. security officials and people working for gun dealerships even if they do not have firearms of their own. This monitoring leg was non-existent in the Arms and Ammunition Act of 1969, and that led to many irresponsible firearm incidents at institutions such as security firms (Minnaar, 1998:6). The following sections from the FCA highlight the requirements for a person to obtain a competency certificate:

Section 6 (2) of the FCA stipulates that no licence may be issued to a person who is not in possession of the relevant competency certificate.

Section 9 (2) of the FCA stipulates that a competency certificate may only be issued to a person if he or she - (a) is

21 years or older.

(d) is of stable mental condition and is not inclined to violence.

(e) is not dependent on any substance which has a narcotic effect.

(f) has not been convicted of any offence under or in terms of this Act or previous Act and sentenced to imprisonment without option of a fine.

(I) has not been convicted of fraud in relation to, or supplying false information for the purpose of obtaining a competency certificate, licence, permit or authorisation in terms of this Act or the previous Act.

(l) has not been convicted of an offence in terms of the DVA, and sentenced to a period of imprisonment without the option of a fine.

(m) has not been convicted of an offence involving the negligent handling of a firearm.

(p) has not become or been declared unfit to possess a firearm in terms of this Act or the previous Act.

(q) has successfully completed the prescribed tests on knowledge of this Act.

(r) has successfully completed the prescribed training and practical tests regarding the safe and efficient handling of a firearm.

Any person who does not comply with the above stipulation is regarded to be an at-risk individual and cannot be issued with the competency certificate which is a requirement to obtain a firearm licence.

3.5.5.2 The FCA re-defines a firearm

In terms of the Arms and Ammunition Act 75 of 1969, firearm definition was restricted to the whole firearm body and the barrel thereof. Section 94 (1) of the FCA defines a firearm as a slide, bolt or a breech block of a firearm (2). No person may possess any firearm part unless he or she (a) holds a licence in respect of a firearm capable of bearing that firearm part. It is important to note that the previous Act (75 of 1969) did not regulate firearm parts, and that has resulted in the backyard manufacturing of homemade weapons. Well-constructed homemade firearms are capable of shooting ammunition which can fatally injure or kill a person.

3.5.6 Policing Priorities and Objectives

In terms of section 11(2) (a) of the South African Police Service Act 68 of 1995, the National Commissioner must set out policing priorities and objectives for each financial year. Priority One

for 1998/99 and 1999/2000 policing priority and objectives, was to curb violent crimes committed with firearms by increasing the detection rate in firearm-related cases and by improving control over firearms/ammunition. The above priority was aimed at clearing the following crimes: murder with firearms, robbery with firearms, theft of firearms, and illegal possession of firearms. The SAPS' performance indicators were: reduction in firearms lost/stolen; number of cases reported for negligent loss of firearms; number of people declared unfit in terms of sections 11 and 12 (now sections 102 and 103 respectively); number of inspections at firearm dealers and manufacturers; and, number of inspections at port of entry regarding imports/export permits of firearms.

An increase in violent crime prompted the SAPS to prioritise firearms. In the SAPS Annual report for 2003/2004, Pillar Three aims to focus on reduction and eradication of the illegal pool and criminal use of firearms. Operation Sethunya was launched in 2003 by the SAPS in an endeavour to confiscate illegal firearms and check legal firearm owners' compliance with the firearm legislation (Meek & Stott, 2004:27). They report that the operation ran from April to September 2003 in line with the SAPS firearm strategy. Destruction of the confiscated firearms was also decentralised to the various provinces and that contributed positively to an increase in the number of firearms destroyed per year.

In the Police 2004/2005 Annual Report, firearms continued to be a priority for the SAPS. Priority Two endeavoured to address serious and violent crime by focusing on the proliferation of firearms and the impact that this is having on murder, armed robbery, farm attacks, heists and vehicle hijacking.

During the period under review, a total number of 15 837 firearms were circulated as lost and stolen (compared to 20 164 for the previous period) and 23 813 were confiscated/recovered (compared to 35 248 for the previous period).

3.5.7 SAPS firearm strategy

The SAPS is the primary institution responsible for the control of small and light weapons in

South Africa. In compliance with that, the SAPS developed a Firearm Strategy in 2001/2002, with the aim of eradicating the proliferation of firearms for use in crime and violence in South Africa. The strategy was based on the following five pillars:

Pillar 1: Development and maintenance of appropriate firearm-related regulators. That included the development of policies, procedures and operational mechanisms towards effective implementation of the Firearms Control Act. The target date was set for March 2004.

Pillar 2: Development and maintenance of effective firearm control processes and procedures. The pillar included the administrative mechanism, human resources and equipment capacity required to implement the Firearms Control Act. Designated Firearm Officers were appointed at the stations, in area and on provincial level in the 2002/3 financial year, together with the Firearm Registration Centre. In 2003 a national audit on firearms was conducted in all state departments, to update the registry data. In June 2002 the South African Qualification Authority (SAQA) approved the minimum standards set for firearm competency, hence the introduction of the competency certificate. The minimum requirements for safes, strong rooms and safety devices were drawn up and integrated into the firearm control regulations. The requirements standardised civilian safekeeping facilities and imposed more effective firearms control. SAPS storage facilities were improved to cater for storage of confiscated and surrendered firearms.

Pillar 3: Reduction and eradication of the illegal pool and the illegal use of firearms. This pillar entails detailed analysis of control dysfunction, detection of the origin of illegal firearms, linking of cases and criminality, focused organised crime interventions and cross-border operations with Lesotho and Swaziland to curb illegal smuggling of firearms.

Pillar 4: The prevention of crime and violence through awareness and social crime prevention partnerships. This involved the SAPS undertaking to raise the level of awareness and prevent crime. Projects like gun free schools were to be pursued.

Pillar 5: Regional firearms interventions.

This pillar aimed at ensuring co-ordinated planning, implementation, monitoring and evaluation of firearms initiatives, in an effort to reduce the proliferation of firearm usage in crime and violence in the Southern African region. Among others it entailed:

- managing all regional policy implementation of firearms and operational interventions.
- managing regional requests for assistance by countries or agencies in Southern Africa, with the SAPS as the initiating or implementing agency.

3.5.8 Arms Management in South Africa

The mass production of firearms with less government control of sales, has exacerbated the abundance of light weapons in circulation globally (Meek, 2000:2). Short-sighted sales policies and lack of control over weapons once they reach their destination, have also contributed to the transfer of weapons from legal to illegal markets. South Africa used to arm allies in Angola and Mozambique as part of its policy to fight South African freedom fighters based in those countries. No proper records were kept of arms inventories, and after 1994 most of those firearms could not be accounted for.

In the wake of increased violence in South Africa, the decision to review ownership and use of firearms in legal possession could not have come at the better time (Meek 2000:33). The Minister of Safety and Security, Sydney Mufamadi, stated that South Africa required some firmer measures with regard to illegal firearms as well as proper control over licensed arms (Meek, 2000:33).

3.6 Conclusion

In this chapter, firearm restriction to at-risk individuals was viewed from the legal perspective. The FCA has as its basis the Constitution of South Africa, which obliges the state to provide adequate security and protection to all people in South Africa. The Constitution requires national legislation to provide a framework for a national policing policy, hence the White Paper on Safety and Security, the South African Police Act, the NCPS and the Policing Objectives and Priorities.

CHAPTER 4

PREVENTION STRATEGY FOR AT-RISK GUN LICENCE HOLDERS

4.1 INTRODUCTION

There is an ongoing debate among policy makers about which crimes are more preventable than others and which crime prevention measures are best in fighting crime. One other concern is the involvement of firearms in the commission of crime. Cook and Ludwig (2001:30) report that gun usage in violent crimes is ever-increasing, and needs well-crafted policies to effectively control guns and limit their availability to high risk groups. Police's role in addressing crime involves crime prevention initiatives and general law enforcement.

The three models of crime prevention are probed in this chapter, by first looking at the general background of the prevention model, different models from primary, secondary and tertiary, and the interaction between the three models. The main focus will be on prevention strategy that will restrict firearms from entering the hands of at-risk individuals.

4.2 BACKGROUND

Firearms are dangerous in the community and, just like diseases, they are likely to cause serious harm if prevention measures are not taken timeously. There are three levels at which attempts are made to address the problem in an endeavour to influence both the behaviour of the offender and the situation where the crime and disorder takes place (Rogers, 2006:113). The three prevention approach has been borrowed from the medical literature in making a three-way distinction between primary, secondary, and tertiary prevention (Gilling, 1997:4). Brantingham and Faust (as quoted in Gilling, 1997:4). identify primary prevention as the general public who are not necessarily ill, secondary prevention as those at risk of contracting diseases, and tertiary prevention as those already ill. These medical terms have a bearing on crime prevention, and particularly firearms, in that at primary level just as in the health sector, the general public who do not necessarily own firearms can be educated through awareness campaigns, thereby preventing offending/victimisation before it emerges. At the secondary level, just like people at risk of contracting diseases, focus will be on people at risk of offending by using firearms, e.g. a mentally unstable person who applies for a firearm licence. At tertiary level, while the medical arena focuses on healing, the FCA process will involve taking steps to prevent further offending and or victimisation by those who already possess firearms.

Prothrow-Stith, Spivak and Hawson (1987:67) report that an ancient American tradition of violence control was through criminal and legislative fields by threat of punishment and law enforcement as a perceived after the fact intervention. They report that the Surgeon General and the Public Health Service in 1980 conceptualised violence as a public health problem and recommended the use of prevention strategy that was successful for health problems.

Prevention is a measure taken before a criminal or delinquent act has actually occurred, for the purpose of forestalling such an act (Amos & Welford, 1967:1). Crime prevention is, according to Smith (2007:1), any action that causes a reduction in the level of criminal activity, or in the number of criminal offenders and their victims. Lab (1992:10) believes that crime prevention entails any action designed to reduce the actual level of crime and/ or the perceived fear of crime.

The public health perspective on interpersonal violence complements the criminal justice approach which is mostly at secondary and tertiary levels, by focusing on violence as a threat to the community (Tonry & Farrington, 1995:237). They report that the public health perspective views violence as emerging from a complex causal system and not only from the offender's intention, motivation and character. From the public health viewpoint, as highlighted by Brantingham and Faust (1976), primary prevention refers to actions taken to avoid the initial development of disease or problems (Lab, 1992:11). Secondary prevention focuses on specific individuals and situations which depict early signs of disease, while tertiary prevention comes into play when the disease or the problem has already manifested itself (Lab, 1992:11). Lab indicates that at the tertiary level, prevention entails elimination of the immediate problems, and steps designed to inhibit recurrences (Lab, 1992:11). Tonry and Farrington (1995:238) are of the opinion that instead of clamouring for more effective prosecution and longer jail terms, it is important to focus on crime prevention through more stringent gun control, more intensive and earlier interventions with violence-prone families, and the training of adolescents in non-violent methods for resolving disputes.

Maguire, Morgan and Reiner (1994:660) are of the opinion that while primary crime prevention focuses on explaining the distribution of crime events, secondary and tertiary prevention

concentrates upon changing the expressed criminality of those who already have, or have a high probability of acquiring, a criminal identity. In relation to domestic violence as another other form of violence, Wolfe and Jaffe (1999:133) are of the opinion that the public health model can be used to identify opportunities for domestic violence prevention along a continuum of possible harm, with primary prevention set to reduce the incidence of the problem before it occurs, secondary prevention reducing the prevalence after early signs of the problem, and tertiary prevention intervening once a problem is already evident, to prevent recurrences.

4.3 PRIMARY PREVENTION

Primary prevention within criminal justice entails identifying conditions within the physical and social environment that provides opportunities for criminal acts (Lab, 1992:11). At this level the approach does not target individuals who are already criminals or are prone to criminal behaviour, but it works with general physical and societal factors that allows deviance to grow (Lab, 1992:17). Primary prevention addresses individual and family level factors, correlated with later criminal participation (Crime Prevention 2007:2). Rogers (2006:113) is of the opinion that primary prevention is aimed at the general population with no preconceived assumption about their propensity to commit crime and disorder, e.g. National Television campaign on safe handling of firearms.

Types of prevention approaches at this level include environmental design - which encompasses architectural design, lighting, locks, access control and identification; neighbourhood watch - which involves surveillance and citizen patrols; general deterrence - which involves police patrol methods and sentencing methods; public education - which includes level of crime and education/training for jobs; and private security - which involves guarding of premises and street patrols (Lab, 1992:12). Using examples from domestic violence prevention strategy, Wolfe and Jaffe (1999:133) are of the opinion that initiatives such as school-based programmes that teach students about domestic violence and alternative conflict resolution skills, and public education campaigns to increase awareness of the harm of domestic violence and of services available to victims, can address domestic violence at the primary level. That is likely to help them develop into non-violent adults. They report that these efforts can be targeted through awareness

campaigns at populations that may be at risk of violence in their intimate relationships, but who have not yet shown symptoms of concern, or can be directed at broad population groups such as school going children, or members of a particular community.

This approach is aimed at preventing the onset of criminality and known risk factors associated with childhood anti-social behaviour. Rogers (2006:114) reports that at this level, focus is on the general population of potential offenders. Examples at the offender level could take the form of early childhood intervention for those deemed to be at risk of offending, by improving on children's health and educational achievement. The success and failure of a child's or youth's development can destabilise the country (Weiss, 2003:11).

The Crime Prevention Strategy of the Eastern Cape Province (2005:8) divides primary prevention into two components. The first component is large-scale public education, using innovative public education messaging to provide information to different sectors of the community, relating to the specific crime issues identified in the strategy. The second component involves intervention programmes and community-based activities aimed at increasing the strength, capacity and resilience of individuals, families and communities in relation to known risk factors for crime. Individual level factors such as attachment to school, involvement in pro-social activities, etc., are believed to reduce the probability of criminal involvement. In the same order, family level factors such as consistent parenting skills, reduce individual risk level (Crime prevention ..., 2007-2).

Victim-focused prevention could also be centred on early intervention for those who are likely to be considered 'at risk' of victimisation, and may include educational campaigns warning young children about dangers and hazards of some sort (Preventing Crime in Australia ..., 2006:4). In relation to the FCA, the DFOs may undertake an educational campaign at schools where they hand out rulers, lunch boxes, pencil cases, erasers, etc., with messages such as "if you see a gun don't touch, tell an adult"; "guns are dangerous, don't play with them"; "if you see your friend with a gun, tell your teacher or phone 0860010111" (CFCR, 2006). In so doing, the DFO may empower the children by demonstrating to them what a real gun looks like, and answer their

questions. Maguire *et al.* (1994:511), reports that criminal behaviour generally develops over time. It starts with childhood anti-social behaviour (such as bullying, lying, taunting, and cruelty to animals), followed by adult anti-social behaviour (such as spouse assault, child abuse and neglect, excessive drinking, etc.). In targeting the youth, the DFO will be moulding the children and youth away from anti-social behaviour which may later develop into criminality.

4.3.1 Primary intervention at schools

Some parents still argue that schools are meant for academic learning only and social learning matters are the terrain of parents. This is somehow true, but not all parents take time to instruct their children in these social aspects. In Ghana the government put aside R65 million to introduce a school alert model aimed at teaching children about HIV/Aids from the earliest stages of their education, as part of their national strategy to fight HIV/ Aids (Daily Sun, 2007:11). The paper reports that in 2006 more than 83 000 teachers were trained to educate pupils about the virus, using specially made teaching aids to raise awareness. Their second strategy focused on people who are at risk, especially young people and refugees, encouraging and teaching adults and teenagers to use condoms and also how to use them. The project is reported to have yielded results.

If one follows the Health Prevention Model from Ghana, it lays the foundation for a possible prevention model that can be used to raise firearm awareness in schools. The school is therefore an indisputably vital place to educate youth/pupils in interpersonal relations, problem solving and social negotiations in a setting that provides students with the opportunity to interact with their peers and authority figures (Walters, 1992:145). An example of school intervention in relation to the FCA can be a visit to the school by the DFO to show schoolchildren real firearms and explaining the danger thereof. If children know the difference between toy guns and real guns, and the consequences of mishandling (playing with) a real gun, then the incidence of pupil casualties in child shooting accidents may be reduced. Walters believes that sufficiently intense programmes aimed at pre-schoolers would have a significant impact on later social adjustment.

4.3.1.1 Temple's school prevention initiatives

The congress and local community, with the help of the university of Temple recommended the following prevention initiatives: a comprehensive and systematic safe school initiative that includes mandated safe school centres to train and support youth; strengthened laws to keep guns out of the hands of criminals through more careful screening and background checks of individuals purchasing firearms; taking of fingerprints and photographs of all firearm applicants and encouraging responsibility laws that require gun owners and parents to keep their weapons secured from minors; modifying the gun-free school zone to the weapon-free school zone law, which requires each state to establish clear sanctions for juveniles who commit crimes in demarcated areas; encourage schools to adopt weapon intervention and prevention programmes, such as the star programme developed by the centre to prevent handgun violence; develop a campus-wide school safety plan which also focuses on supervision and administrative leadership strategies.

The Temple school prevention initiative is a comprehensive initiative that encompasses a number of initiatives that are aimed at proactively rooting out gun violence around school premises, to ensure the safety of both learners and educators. The following incident may be considered, and related to the Temple prevention initiative. Early in 2007, in South Africa, a teacher was shot dead inside his classroom at Mathonsi Primary School in KwaZulu-Natal North Coast while on duty (Papavya 30 March 2007). She reports further that on 29 March 2007 another female teacher was stabbed to death inside a classroom, also in KwaZulu-Natal. This brings the total to five deaths in one month after two female teachers were murdered at Empangeni School where a principal and another accused were arrested and a female teacher shot dead by her husband around the school premises. (Sowetan, March 30 2007). If the above schools were declared firearm-free zones, or had adopted a weapon prevention programme, most of those shootings could have been prevented.

Children have been appointed as “student cops” for random gun and drug searches at thirty-six schools in the Nkomazi area, Mpumalanga, as part of the Learners in Blue initiative of the Department of Education and Safety and Security (Daily Sun, 2007-04-10). In Gauteng, the provincial government has introduced a school safety strategy aimed at providing safety for

learners around schools. There are a number of good practices from other countries that the Gauteng provincial government can incorporate into their school safety strategy - in particular, the Temple School Safety Plan.

The National Education Portfolio Committee of South Africa has recommended the installation of closed circuit cameras, random drug tests, installation of metal detectors, setting up of high intensity lights, putting up steel palisade fencing and stationary guards outside schools as possible measures to curb violence (Cameras could watch . . . , 2007:5). The article reports further that the Council of Education Ministers have already approved the erection of high walls around schools, random searches for drugs and weapons, and additional lighting at strategic points at 585 schools as a pilot towards full implementation of the portfolio committee's recommendations. All firearms confiscated at the schools either through metal detectors or school patrols will, in terms of the FCA, be subjected to a 'track-back' process where the original owner will be tracked down and a board of inquiry held to determine his fitness to continue possessing a firearm. If such a firearm was used, then the court will determine the owner's and the possessor's (pupil) fitness to possess a firearm.

Proponents of stricter gun laws no longer expect such laws to solve the hard-core crime problem, because they believe crime occurs due to people's hatred of one another (Clarke & Felson, 1993:99). They are of the opinion that if interpersonal hatred can be solved, it may not matter what is done with guns. Tonry and Farington (1995:238) are also of the opinion that instead of clamouring for more effective prosecution and longer jail terms, it is important to focus on crime prevention through more stringent gun control, more intensive and earlier interventions with violence-prone families, and the training of adolescents in non-violent methods of resolving disputes. The above discussion indicates once again that firearm problems need a multiple approach, including social factors ranging from interpersonal, family, peer group, and community orientation.

4.3.2 The Gauteng Safety Strategy 2006-2014

On 30 March 2007, Gauteng Premier Mbhazima Shilowa launched a Gauteng Safety Strategy to

fight crime, at the Walter Sisulu Freedom Square, Soweto. From the priorities highlighted in the strategy, the social crime prevention model was of important to primary prevention model. The Premier highlighted that children exposed to certain risk factors in their environment, such as neglect, domestic violence or being victims of violence, increase the risk that they may in turn become perpetrators of this crime against others (The Gauteng Safety Strategy, 2005:27).

The strategy aims to prioritise schools as key sites for crime prevention initiatives, because schools play an important role in the socialisation of the youth. According to this strategy, if children are exposed to crime and violence, they may end up developing the attitude that certain antisocial behaviours are necessary to survive or succeed in society. Joint partnership between the Gauteng Education Department and the police is likely to yield substantial results.

The 2005 Gauteng Integrated Youth Development Strategy, as part of the Gauteng Safety Strategy (2005:34), will include in its aims the following: young people who have dropped out of school; youth involved in alcohol and drug abuse; and young people who have been victims of crime. The Department of Safety and Community Safety will monitor the programmes of the Provincial Youth Commission and take the necessary remedial actions where needed (The Gauteng Safety Strategy, 2005:34).

4.3.3 Community Organisation

Community-orientated prevention programmes are reasonably effective in reducing the frequency and intensity of future delinquent behaviour (Walter, 1992:146). The Chicago School of Criminology held that high crime areas are characterised by social disorganisation and lack of community cohesion (Walter, 1992:146). They believe that social disorder and crime will be high in neighbourhoods beset with low community solidarity and less frequent social interaction. Such disorder and crime levels tends to be much less common in areas where residents show affinity for their neighbours, exhibit exude a sense of responsibility for activities going on in the community , and display a willingness to intervene in situations where crime is occurring (Walters,1992:147). A neighbour who exhibits a sense of responsibility and knows what is going on in the community, will be in a better position to intervene by objecting when an at-risk

individual within their community wants to own a firearm (may give character information about the applicant during background checks in terms of the FCA).

4.3.4 Gun Free Zones and Firearm Free Zones

Most people still confuse Gun Free Zones (GFZ) with Firearm Free Zones (FFZ). A GFZ may be declared by the owner of a premises, such as a tavern owner, by demarcating a specific area within his premises as a gun free zone where firearms are not allowed. FFZs are regulated by Section 140 of the FCA which stipulates that the Minister may declare a premise to be a FFZ by a notice in the Government Gazette and no person may be allowed onto those premises with a firearm or ammunition.

Gun Free South Africa (GFSA) started a campaign on Gun Free Zones (GFZ) in 1996, with the intention of encouraging people to do something practical about gun violence in their community (Kirsten, 2005:30). Kirsten reports that target places were public places such as schools, church buildings, recreational centres, banks, health clinics and hospitals, taverns, national government buildings, etc. Among the institutions, some declared themselves GFZs and enforced it through security measures such as guards and metal detectors. Rogers (2006:80) believes that people who have been drinking heavily may cause disorder or nuisances and even commit criminal offences which may become lethal when a gun is used. In essence, he supports the idea of gun free drinking places. Most schools based their GFZ enforcement on trust and did not put measures in place to monitor and ensure compliance (only displayed Gun-Free signs). They relied mostly on people entering the premises declaring their firearms, which was not always the case (Kirsten, 2005:30). Kirsten reports that some banks used formal enforcement mechanisms such as searching visitors using electronic devices, providing safes for the safe storage of their clients' weapons and refusing entry to the bank with the firearm.

Examples of GFZ includes Quaker Peace Centre, St. Cathedral in central Johannesburg, the Mangaung Community Development Centre and the Cancer Association of South Africa in Bloemfontein, the Gauteng Education Department, and the national headquarters of corporations

such as BP and Anglo-American, the banking sectors, municipal and provincial government buildings such as the Union Buildings in Tshwane, and Parliament in Cape Town (Kirsten, 2006:26). Kirsten reports that, based on GFSA's community campaigns, in 1996 the executive committee of the Methodist Church of Southern Africa passed a resolution that stated "no firearms should be brought to the worship services and other meetings of our churches".

In 1997 the Minister of Safety and Security invited GFSA to be part of the firearm policy committee to develop policy guidelines for the new firearms legislation. The Firearms Control Bill was published in the Government Gazette in December 1999, with Gun Free Zones included (Kirsten, 2006:25).

According to the Firearm Free School Pilot Project (2001:2), FFZs are given protection by the Firearms Control Act, which protects them by criminal law, while GFZs are protected by civil laws that prohibit trespassing. Both the GFZs and FFZs are aimed at addressing mobility of firearms into buildings and places frequented by the general public. The primary goal was to secure the safety of the inhabitants in those public places.

4.3.5 Media-Based Programme

Media is a potent force in influencing public perception on important issues such as politics, culture, environment, public views on crime and crime reduction (Rogers, 2006: 138). Walters (1992:148) is of the view that media, in the form of television, movies, newspapers or magazines, contributes to the modification of criminal and non-criminal action. American television is reported to have shown American public commercials informing them about the danger of drugs and extolling the virtues of drug-free living as part of the drug-free American campaign. The Gordon S. Black Research Co-operation of Rochester, New-York, reviewed results of that campaign and found that attitudes towards usage of marijuana and cocaine declined more in high, as opposed to low, media-exposed areas (Walter, 1992:148).

Newspapers sometimes over-represent incidents of serious crime like rape, robbery, burglary, etc., and the language used by the newspaper conveys the impression that the crime was random,

unpredictable and without realistic remedy (Walter, 1992:148). The Czech Republic gave an overall thanks to the structured media on the prevention and information activities of the police and promotion of the prevention activities in their country. They report that the public is now aware of legal methods of protection against crime, and the public awareness of prevention activities keeps rising. Crime prevention has become a clear concept and has gained massive community support through initiatives such as structured media (Crime Prevention Strategy 2004-2007:6).

Deterrence as part of primary crime prevention involves "influencing by fear", which is aimed at scaring potential offenders to refrain from committing criminal acts due to fear of apprehension and punishment (Lab, 1992:101). Media can also be positively used as a general deterrent by reporting incidences of people who have been declared unfit to possess firearms in terms of sections 102 and 103 of the FCA, and had convictions for section 120 offences. The outcome is in line with the primary crime prevention objective which is crime elimination through deterrence. Lab (1992:101) reports that the likelihood of deterrence increases as the risk of punishment increases.

All of the above initiatives are indications that precautionary interventions can be done even before a person engages in criminal activities. The DFOs can also make use of the media to make the provisions of the FCA known to the community. The media can be used to inform the public about important changes in the FCA, and as a reminder during firearm renewal processes.

As discussed above, primary prevention is non-specific and broad-based and deals with the general public, yet it may consist of definite prevention strategies which are broad-based and not aimed at the public at large. Initiatives such as educational awareness campaigns on responsible firearm ownership, and basic legislation regulating firearms, are examples of primary prevention on firearms. Other initiatives may include declaring areas such as schools to be Firearm Free Zones. In addition to keeping pupils safe, spousal shootings on school grounds can be prevented. The more firearm conscious the people are, the more eyes and ears of government (police) there will be on the ground that will help in the development of a responsible firearm society.

4.4 SECONDARY PREVENTION

In secondary prevention, general societal manipulations similar to those applied by primary prevention are refined and targeted at specific persons (Lab, 1992:249). Secondary crime prevention involves the early identification of potential offenders and seeks to intervene prior to the commission of illegal activities (Lab, 1992:13). L'Abate (1990:25) defines secondary prevention as early identification of the problem, diagnosis thereof and the treatment of cases in need before they break down.

Bratingham and Faust (as quoted in Maquire, Morgan & Reiner, 1994:660) are of the opinion that secondary prevention addresses the change in people, typically those at risk of embarking upon a criminal career, even before doing so. Simply put, it is concerned with the prevention of criminality rather than the prevention of crime. Wolfe and Jaffe (1999:133) are of the opinion that secondary prevention programmes at this level could include home visiting for high-risk families, and community based programmes on dating violence for adolescents referred through child protection services. With regard to the FCA, an example can be a school educational initiative where there is high risk of firearm usage, to lecture pupils about responsible firearm ownership and handling.

The goal of secondary prevention is to target individuals to decrease the prevalence of a problem by minimising or reducing its severity and the continuation of its early signs (Wolfe & Jaffe, 1999:135). This approach is specifically directed at those particularly at risk of offending or victimisation (Rogers, 2006:114). Rogers reports that such a group is identified because of some predisposing factors, e.g. their age group, where they live, their lifestyle, their socio-economic circumstances, or some other predictor of risk. Many programmes at the secondary level deal with juveniles, because juvenile delinquency is seen as a precursor to adult delinquency (Lab, 1992:249). The above predisposition factors makes the target audience to be deemed more prone to criminality than the normal group and therefore worthy of attention (Rogers, 2006:114).

Crime prevention approaches at this level include: identification and prediction through early

identification and prediction of problem individuals; crime area analysis, by targeting high crime areas and implementing neighbourhood dispute resolution; diversion of the criminal justice system and the community; crime prevention programmes at schools; and, working with problem youth. The accuracy and reliability of behaviour prediction are constantly criticised, but Lab (1992:13) argues that it is a global practice that can be trusted. The intention, according to Lab (1992:13), is to foster deviant behaviour on factors that already exist.

Identification and prediction are, according to Lab (1997:139), the cornerstones of secondary prevention. Lab (1997:140) reports that one of the most common outcome measures in predicting behaviour is dangerousness, which can take the forms of danger to oneself, danger to the physical wellbeing of another person, and danger to property. The National Centre for Victims of Crime in New York (2001:3) also reports that secondary crime prevention attempts to prevent crime by focusing on at-risk offenders or potential opportunities that may foster criminal activity, with identification and prediction as its central tools. Prediction in crime can involve where a crime might happen, whether a convicted person will continue with criminal activity after his release, whether a short-tempered or aggressive person is likely to kill others if he has a firearm in his possession, etc. Walters (1992:6) is of the opinion that predictions, similar to television weather forecasts, can be wrong, but need to be measured against the consequences of not reacting to early warning signs. He cites an example of an incorrect weather forecast that may lead to a wet picnicker or a disappointed skier, as far better when compared to a wrong criminal prediction that may lead to rape, serious assault, or murder or even keeping an individual in custody who is no longer a threat to society (Walters, 1992:6).

Walters (1992:6) believes that it is important to analyse dangerousness and recidivism in terms that more adequately address the relevant issues, and maximise the prognostic capabilities of existing measures, procedure and techniques. Section 9 (2) of the Firearms Control Act (FCA) requires all people who intend handling firearms to first have competency certificates before they can be allowed to handle the firearms. The requirements thereof are that the firearm applicant must be a fit and proper person, as indicated in paragraph 1.7.2.3. In essence, secondary prevention is aimed at keeping potential deviants from realising their potential of offending.

Lab (1997:5) is further of the opinion that secondary prevention programmes, concerned with intervention strategies, focus on the identification of potential deviants and sources of deviants' behaviour. He reports that, based on predictions, law enforcement can develop situational enforcement or community-orientated crime prevention programmes.

4.4.1 Situational Crime Prevention

Situational crime prevention is the main type of visible crime prevention strategy that has yielded measurable success when addressing specific crimes (Rogers, 2006:115). Developed in the 1970s, situational crime prevention became the main form of government intervention during the 1980s (Gilling, 1997:60). Situational crime prevention is defined by Newman et al. (1997:115) as “[o] pportunity reducing measures that are directed at highly specific forms of crime that involve the management, design, or manipulation of the immediate environment in as systematic and permanent a way as possible, so as to increase the effort and risks of crime and reduce rewards as perceived by offenders”. It refers to crime prevention strategies that aim at reducing opportunities in everyday routine life (Hirsch, Garland & Wakefield, 2000: i). Gilling (1997:5) is of the view that situational crime prevention focuses on the management, design and manipulation of the built physical environment, in order to reduce the opportunity to commit crime and the risk of detection if deterrence fails.

Installation of surveillance cameras, access control to buildings, car steering locks and gun controls are all situational measures that are aimed at reducing opportunities for the commission of crime. Security guards, screening of luggage and surveillance cameras are examples of situational crime prevention aimed at increasing the risk of offenders being caught. Examples of situational crime prevention aimed at reducing the reward of crime include removal of car stereos and proper marking of properties (Preventing Crime in Australia, 2006:2).

Unlike social crime prevention which addresses the disposition to offend, situational crime prevention pays attention to the opportunity to commit crime itself, which makes it easier to evaluate. Situational crime prevention seeks to identify existing problems at the micro level and

establish interventions that will deal specifically with the problem (Lab, 1997:22). Such interventions may, according to Lab (1997:22), involve physical design change, altering social behaviour and improving surveillance.

Secondary crime prevention programme supporters believe that once we are able to identify potential places, people, situations or opportunities that are at risk for criminal activity, it may be possible to predict and prevent any future criminal occurrences. William Haddon, a public health physician of the Federal National Highway Traffic Safety Administration established a three-phase framework of methods to prevent gun injuries (Hemenway, 2004:11). They are the prevention of the initial hazard before it is created, reduction of the amount of hazard if it is created, and the prevention of the release of such hazard if it already exists.

Prevention of the initial hazard entails aspects such as background checks before a gun licence is issued, and prohibiting the manufacturing of certain types of firearms (Hemenway, 2004:11). Reduction of the amount of hazard involves discouraging the usage of lethal guns by the police and the prohibition on the manufacture of specific types of ammunition. In preventing the release of the hazard that already exists, Haddon is of the opinion that firearms need to be stored in boxes, and firearms need to be prohibited from bars (Hemenway, 2004:11). The provisions of the GFZ and the FFZ which prohibit the carriage of firearms in bars, falls within the ambit of Haddon's third proposal on prevention method.

Haddon (Hemenway, 2004:11) is further of the opinion that firearms can be effectively managed by modifying the rate of release or spatial distribution of hazard, separation in time or space of the hazard from the persons to be protected, interposing a barrier between the hazard and the person to be protected, modifying contact surfaces and structures to reduce injury, and strengthening the resistance of persons who might be injured. In the FCA, modification of hazard release rate may involve the registration and labelling of firearms to improve tracing thereof. Increasing space between the hazard and the people protected entails aspects such as a waiting period for the purchase of firearms, as practiced in countries like the USA, arresting offenders and confiscating their firearms (Hemenway, 2004:11).

If firearms are registered, owners are more likely to comply with storage requirements, thereby reducing the risk of firearm accidents, theft and loss (Hemenway, 2004:12). Theft and losses are likely to be reported, because registered firearms can easily be traced back to their registered owners. With firearm registration, police will, for example, know how many firearms to confiscate at a domestic violence scene or after a person has been declared unfit in terms of sections 102/3 (if not yet confiscated).

Hughes (as quoted in the article, Preventing Crime in Australia ..., 2006:3), is of the opinion that situational crime prevention normally leads to migration of criminal behaviour. Situational behaviour advocates argue that crime displacement is not always negative. They believe that even if crime cannot be prevented, it might be made less serious, e.g. a house robbery may become burglary, assault with a weapon might become simple assault and robberies with guns might become common robberies (Preventing Crime in Australia ..., 2006:3).

The National Centre for Victims of Violence in New York (2001:3) reports that individuals can embark on situational crime prevention programmes to eradicate or reduce specific types of crime and criminal behaviour. Among others, situational crime prevention programmes may involve the following: target hardening, formal surveillance, natural surveillance, and reducing the potential reward of crime. Clarke and Homel developed sixteen situational prevention techniques in response to changes in how to understand crime, theories in reducing crime, and the changes in crime itself. These techniques are tabulated into four strategic phases of situational crime prevention models as indicated in the following table:

Table 4.1 Sixteen Situational Prevention Techniques

Increase the effort	Increase the risk	Reduce the rewards	Induce guilt / Shame
1. Target hardening	5. Entry/ exit screening	9. Target removal	13. Rule setting

Slug rejecter devices Steering locks Bandit locks	Automatic ticket gates Baggage screening Merchandise tags	Removable car stereo Women's refuges Phone card	Harassment codes Customs declaration Hotel registrations
2. Access control	6. Formal surveillance	10. Identifying property	14. Strengthening moral condemnation
Parking lot barrier Fenced yards Entry phones	Burglar alarms Speed cameras Security guards	Property marking Vehicle licensing Cattle branding	Shoplifting is stealing Roadside speedometers "Bloody idiots drink and drive"
3. Deflecting offenders	7. Surveillance by employees	11. Reducing temptation	15. Controlling disinhibitors
Bus stop placement Tavern location Street closure	Pay phone location Park attendants CCTV systems	Gender-neutral phone lists Off-street parking	Drinking age laws Ignition interlock Server intervention
4. Controlling facilitators	8. Natural surveillance	12. Denying benefits	16. Facilitating compliance
Credit card photo Caller id Gun control	Defensive space Street lighting Cab driver ID	Ink merchandise tags PIN for car radios Graffiti cleaning	Improved library checkout Public lavatories Trash bins

Source: Ronald, Clarke and Ross Homel (edited by Siegel, Larry J, 2006:109)

The discussion that follows takes a closer look at the different techniques as indicated in the above table.

4.4.1.3 Increase the effort

Increasing the effort is one form of indirect approach to crime control by making it hard for the

would-be offenders. This technique involves, among others, the placement of identifying marks on personal property to make stolen goods harder to pass on or to sell and easier to identify and return to the victim (Lab,1997:29). Some of the tactics initiated to increase effort include techniques such as locking gates, installing dead-bolt locks in doors, using steering wheel locks for cars, putting iron bars on windows, having owner's photo on credit card, putting unbreakable glass on storefronts, etc. (Siegel, 2006:108).

According to Tonry and Farrington (1995:110), the obvious way to reduce criminal behaviour is to obstruct vandals or thieves through physical barriers such as locks, safes, screens or reinforced materials. They report that the introduction of steering locks on both new and old cars in West Germany in 1963 resulted in a substantial decline in the rate of car theft. The fitting of a transparent screen to shield the bus driver reduced assaults in transit. Installation of anti-bandit screens on post office counters in London in the 1980s led to a 40% percent decline in robberies. Strengthening coin boxes led to a reduction in incidents of deliberate damage to public telephones in Australia (Tonry & Farrington, 1995:110).

Handgun manufacturers must, according to Newman et al. (1997:214), take responsibility for thousand murders and drive-by shootings as good as motor manufacturers accept responsibility for vehicle thefts due to the ease with which cars can be broken into. They need to build in safety mechanisms that will reduce unnecessary accidental shootings.

The other way of increasing the effort is to control access. Access control refers to measures intended to exclude potential offenders from places such as offices, factories and apartment buildings (Tonry & Farrington, 1995:110). Examples of access control are: electronic personal identification numbers (PIN) that are needed to gain access to computer systems and bank accounts; entry phones; fencing around apartment blocks; electronic access to the parking bay; and, introduction of a reception desk to the building (Tonry & Farrington, 1995:111). The whole process needs to start with proper definition and regulation of firearms. Late in 2007 a 56-year-old man was shot and seriously wounded by a youth playing with a pellet gun (Daily Sun, 2007-11-14). Considering that a pellet gun has been de-regulated, something else needs to be done to

intensify control over such deregulated but harmful guns.

Background checks were introduced in the FCA as a form of access control to eliminate at-risk individuals from possessing firearms. Background information has its basis in the medical arena, where medical examiners interview the patient for background information to his ailment, to contextualise and diagnose illness (Walter, 1992:13). He is further of the opinion that despite the medical background, which is 80% accurate, in the criminal arena people cannot be trusted for their background information, and it is better to evaluate a case if their background or historical information contained in a file or source independent of the person in question, is obtained.

Although available data is often more negative than positive, efforts should be made to identify personal strengths as well as personal liabilities, e.g. the fact that a person offended at the age of 16 but has since gone back to school, graduated at a tertiary institution, and has been a stable manager for 15 years, should be considered as important programmes of change (Walters, 1992:14). Walters sums it up by saying the criminal interview is designed to assist in appreciation of the client's past criminal behaviour and current criminal thinking (Walters, 1992:14).

Examples of controlling facilitators includes selling beers in plastic mugs to prevent their use as weapons; building in breathalyser into ignition keys to address drunken driving; removing telephone books and restricting cell phone network coverage at common drug sales points; and requiring proof of identification for transactions. Tonry and Farrington (1995:117) report that the mere presence of a weapon such as a gun has been found to induce aggressive behaviour. They believe that apart from reducing the availability of weapons, gun control would also remove inducement to violence.

The Brady law of 1994 requires that a prospective handgun applicant undergoes a background check and a five-day waiting period in all states of the USA. Mona Wright, Garen Wintemute and Frederick Ravara compared Californians who tried to purchase handguns but were denied because of prior felony convictions, and those who had prior felony arrests but were not

convicted and were awarded gun licences (Cook & Ludwig, 2000:121). Findings by Wright and partners indicated that three years after the purchase, the “arrest only” group had 21% more gun arrests and 24% more violent crime arrests than those denied purchase (Cook & Ludwig, 2000:121). They are of the opinion that denial had some effect on the likelihood that the felons could have acquired guns.

Suicide prevention is one of the major goals of the Public Health Service of the US government (Clarke & Lester, 1989:1). They are of the opinion that the availability of methods for committing suicide can be prevented by restricting access to those methods (Clarke & Lester, 1989:9). The FCA regards a person who threatens to kill himself as an at-risk person who cannot be entrusted with a firearm. By refusing firearm applications of suicide-prone applicants and by declaring those who already own firearms unfit, the government, through the FCA, is actually removing guns from the environment of the suicidal person, and therefore restricting the means to commit suicide.

Akers proposed the following gun control strategies as a means of increasing the effort: Screen out persons who apply for a gun for self-defence; and make training a prerequisite to gun ownership (Clarke & Felson, 1993:96). They report that the first strategy would involve a properly drafted licence application questionnaire, with a follow-up interview. The second strategy involves training in the safe handling and storage of firearms, to alleviate anti-social propensities (Clarke & Felson, 1993:97).

In South Africa, the Firearms Control Regulations obliges the police to conduct background checks on all firearms applicants, to ensure that they are fit and proper individuals to possess firearms. Individuals, who are involved in criminal activities, are violent, are dependent on drugs or alcohol and who have unstable mental conditions, may not be issued with firearm licences, because they are perceived to be at risk of contravening the provision of the FCA.

Cook and Ludwig (2000:118) report in their firearm acquisition policy, that restriction of gun supply is not guaranteed to disarm violent people, but something needs to be done to regulate

gun acquisitions (Cook & Ludwig, 2000:118). Cook and Ludwig are of the opinion that prohibition of sales of guns by Federally Licensed Firearms Dealers (FFLS) to people prohibited from owning firearms, such as teenagers, convicted felons, fugitives from justice, and those with serious mental illness, can help in regulating guns. They report further that the FFLS are also required to conduct background checks on prospective buyers to enforce those restrictions.

According to Cook and Ludwig (2000:125), safe storage as an intervention strategy entails keeping guns stored safely, locked and unloaded, to prevent unintentional injury to children (Cook & Ludwig, 2000:125). Cook and Ludwig report further that between 1989 and 1993 a total of 12 states enacted laws that make it a criminal offence to store guns in a manner accessible to children. A study conducted by the University of Washington evaluated these laws regulating unintentional shooting of children between 1979 and 1994, and found that such shootings decreased by 41%. Overall, these findings are suggestive that well-publicised laws, reinforced with criminal sentences, encourage gun owners to store guns safely – which, in effect, reduce firearm accidents. Section 120 (8) of the FCA makes it an offence for firearm owners who fails to lock away a firearm in a prescribed safe, if such a firearm is not carried on their person, i.e. under their direct control.

Gun lobbies argue that strict regulations are likely to result in at-risk individuals changing buying patterns from primary markets sales (legal) to secondary market sales (illegal) (Cook & Ludwig 2000:119). They are of the opinion that despite the presence of all active secondary gun markets, regulations of primary market sales have the potential to affect individual buyers in a number of ways. Firstly, in the absence of primary market regulations to ban sales of guns to high-risk individuals, and the requirement of background checks to enforce the ban, some teenagers and companies will acquire guns directly from dealers in the primary market. The FCA already makes provision for background checks on firearm applicants. Section 3 of the FCA prohibits firearms dealer to hand over firearm to any person who does not have a licence to possess it.

Section 13 of the FCA restricts firearms for self-defence to one handgun or shotgun that is not fully or semi-automatic. According to other sections such as sections 15, 16 and 17, individuals

may have more than one firearm but those firearms are restricted to the purpose they have been issued for. Sections 15 and 16 firearms may, for example, only be used for hunting purposes, while section 17 firearms may only be displayed as collection items and not carried around. The requirements for firearm storage for these categories are also high. It is required that the applicant be in possession of or have access to a rifle safe, have an alarm system linked to a security company, etc.

A summary of what Cook and Ludwig (2000:31) suggest as interventions to limit gun's availability, follows:

Table 4.2 Cook and Ludwig's firearm regulation policy

Acquisition	Carry to scene	Use in crime
Prohibit ownership by youth and criminals.	Ban concealed carrying or requires a licence	Regulate gun design to reduce lethality
Regulate transactions	Patrol against illicit carrying	Mandate sentence enhancements for use in crime
Require secure storage	Ban small easily concealed guns	
Raise the excise tax on guns and ammunition	Screen entrants at public buildings	
Impose anti-theft measures on dealers		
Conduct buy-backs		

Source: Cook and Ludwig (2000:31)

Cook and Ludwig (2000:31) are of the opinion that 'acquisition' is the core of the gun control debate, together with product design restrictions. They believe that gun use can be reduced by restricting supply and thus making it more difficult, time consuming or costly for a violent individual to obtain a gun.

To have better control over firearms, they need to be reduced to a manageable level. Former American president, Bill Clinton, set aside \$15 million for a gun buy-back programme in 1999 as a firearm reduction strategy (Cook & Ludwig, 2000:123). They report that the programme entailed the government buying guns from private citizens on a “no question asked” basis, to minimise the amount of firearms in circulation.

According to Cook and Ludwig (2000:123), the gun buy-back was a good initiative because it was meant to address risks associated with suicide and unintentional fatal injuries. The problem was the government’s inability to stop the entry level of the firearms, because in 2000, which was a year after the introduction of the programme, almost 4 million new gun licences were approved by gun administrators (Cook & Ludwig, 2000:123). The other unintended consequence was the huge price that the government had to pay. They paid 100 dollars for unserviceable firearms that could have cost less than 30 dollars, resulting in people being able to purchase more serviceable firearms with the state’s indirect and unintentional funding.

Another way of controlling facilitators is through amnesties. Internationally, firearm amnesties are seen as one of the tools available to government to control both legal and illegal stocks of guns (Kirsten, 2005:1). She reports further that such a process is sometimes called voluntary weapons collection programmes or gun buy-back schemes or exchange programmes. In South Africa, amnesties were held as a means of reducing the number of both legal and illegal firearms in circulation. More discussion on South African amnesties follows later in this chapter. The Firearms Control Act (FCA) makes provision for compensation for civilian firearms destroyed by the state. This process is almost similar to the gun buy-back programme, even though they are managed differently. Sections 134-136 of the FCA indicate circumstances under which no compensation will be payable to firearm owners where firearms were confiscated by the police. These are firearms confiscated after a person was declared unfit to possess a firearm, in terms of sections 102 or 103 of the FCA, firearms confiscated from people who possessed them unlawfully or without licences, or the owners have lost them because of negligence, and firearms that the state may by notice in the Gazette decide to destroy.

Section 137 of the FCA stipulates that firearm owners not falling under the category of sections 134,135 or 136 may apply to the Registrar for compensation in respect of that firearm and the Registrar will decide whether compensation is payable or not, and the amount to be paid. The final decision, which is appealable, rests with the Registrar to determine the amount if no agreement is reached. The above compensation provision is likely to assist in reducing the number of firearms in circulation.

In terms of section 120 (8) (a) of the FCA, firearm licence holders commit an offence if they fail to lock away their firearm in a SABS approved safe, if that firearm is not carried on their person or is not under their direct control. The intention of the legislation in this section was to harden the target - which in this case is the firearm. An SABS approved safe will under normal circumstances serve as a physical barrier between the offender and the location where the firearm is kept - which is likely to serve as a significant barrier to the target (firearm).

4.4.1.3 Increase risk

Increasing the risk of apprehension or arrest is aimed at discouraging criminals from committing criminal offences. Felson (as quoted by Siegel, 2006:109) believes that if crime discouragers do their jobs correctly, the potential criminal will realise that the risk of crime outweighs any potential gain. Among crime discouragers are guardians who monitor targets, handlers who monitor potential offenders and managers who monitor places. Mayhew (as quoted by Brantingham & Brantingham, 1981:119) is of the opinion that people usually try to commit crime where they cannot be seen. Situational crime prevention endeavours to manipulate the fear of being seen by the public, to prevent crime through formal surveillance, natural surveillance and screening processes.

Exit/entry screening is the other method of increasing the risk. The purpose of entry screening is to increase the risk of detecting those who do not conform to the entry requirements, e.g. entering premises with prohibited goods or objects (Tonry & Farrington, 1995:113). They report that exit screening on the other hand is aimed at deterring illegal removal of objects. Both entry and exit screening was made more effective by the development in electronics such as

merchandise tagging, bar coding, and “electronic point sales” systems (Tonry & Farrington, 1995:113). The FCA, through competency certificates, screens the entry level of firearm applicants, and sections 102/3 serve as an exit screening.

Schools in New York City, Chicago and Los Angeles introduced metal detectors at school entrances. Most students from these three cities appreciated metal detectors, citing that they would be protected from classmates who bring weapons to school (Laurie, 1994:2). According to Cook and Ludwig (2000:89), 69 public schools in Chicago had metal detectors to the value of \$3,000, with 994 full-time security personnel to the value of \$25 000 per year, and 445 off-duty Chicago police at a cost of \$15 500. They are of the opinion that despite the exorbitant price that government is paying as preventative measures to address firearms , the school’s security system is guaranteed to also address other dangerous weapons such as knives, scissors, box cutters and other metal objects that are commonly used during routine school fights.

Formal surveillance as a means of increasing the risk, involves police, security guards and store detectives physically patrolling the area, to impose a deterrent threat to potential offenders (Tonry & Farrington, 1995:113). Other examples include burglar alarms; closed circuit television (CCTV); and, enlistment of the public to help police, e.g. informant hotlines and crime stop (Tonry & Farrington, 1995:113). Powers conferred on police officers, in sections 106-112 of the FCA, to inspect, search and seize firearms and ammunition, serves as formal surveillance in increasing the risk.

In 1990 the Chicago Police Department and the Chicago Board of Education formed a Chicago police school unit. On a daily basis, two police officers were assigned to fixed posts in every high school. During the first year of its existence, the unit recovered 183 firearms in and around the city schools. In the second year they recovered 200, as a result of surprise search techniques, aided by metal detectors.

Rule setting seems to be situated at the centre of situational crime prevention. It entails organisations setting rules about conduct that is linked to a punishment in their field of

jurisdiction (Tonry & Farrington, 1995:118). Examples of this approach include regulating employee telephone usage, strict cash management at financial institutions, and regulating conduct of clients at places like hotels, hospitals, schools, parks, transportation systems, etc. Situational crime prevention therefore endeavours to introduce new rules or procedures that are intended to remove any ambiguity concerning acceptability of conduct (Tonry & Farrington, 1995:118). They report that the existence of the rule means offenders must be prepared to incur higher costs in terms of fear or conscience. The Firearms Control Regulations, 2004 set specific rules for each section of the FCA, and these are available for everyone's perusal.

4.4.1.4 Reducing rewards

Reducing rewards entails strategies designed to reduce the value of crime to the potential criminal (Siegel, 2006:109). Siegel reports further that initiatives to reduce rewards may include installing car radios with removable faces so that they can be kept out of the vehicle when the vehicle is not manned, marking property so that it is more difficult to sell when stolen, and having gender-neutral phone listing to discourage obscene phone calls.

Target reduction strategies are designed to reduce the value of crime to potential criminals. According to Lab (1992:26), the basic idea behind these programmes is to make it more difficult for offenders to dispose of marked items. Sections 53 and 23 of the FCA regulate the marking of firearms. Section 53 (2) stipulates that a manufacturer must affix a serial number or other identifying mark on any firearm he manufactures, before it leaves the manufacturing plant. Section 23 prohibits the licensing of a firearm that does not bear the manufacturer's serial number or any mark by which a firearm can be identified. Section 111 of the FCA makes provision for any member of the SAPS to search any premises, vehicle, vessel or aircraft, and seize any firearm that does not comply with the provision of this Act. The above requirements will assist the police to monitor compliance with the Act, and deter illegal possession and misuse thereof.

4.4.1.4 Inducing Guilt or Shame

Inducing guilt or shame includes strategies such as rule setting, strengthening moral

condemnation, controlling disinhibitors and facilitating compliance (Homel, 1996:116). It may also involve techniques such as publishing names of offenders in newspapers, providing waste bins at common littering places, introducing caller ID to curb obscene phone calls, etc. (Siegel, 2006:110). Other practical examples of this model include: scheduling arrival and departure of soccer fans in Britain to avoid common rival fights; avoiding concentration of licensed premises in problematic parts of the city to avoid large crowd brawls during closing-time; and, leasing a parking area around busy and congested streets (Tonry & Farrington, 1995:111). The FCA, under the transitional provision, grouped firearm owners according to their month of birth. This allows them to renew in a four-year period, for a period of 15 months (January to the following year March). The dates are repeatedly published in the media as a reminder. This can also be seen as a way of inducing guilt or shame on those who still fail to renew on time.

Rule setting, according to Homel (1996:110), involves reducing uncertainties about the impermissibility of a given behaviour, e.g. customs declarations that clearly specify what can and cannot be imported. Such a rule leaves little room for potential offenders to exploit ambiguity in their own favour. The FCA stipulates the kind of firearms that may be possessed, and for what purposes, in sections 13 to 17. The FCA also has clear criteria for persons who qualify for a competency certificate - which is a pre-requisite before a person can possess a firearm permit. Firearm licence applicants, as well as the law enforcers responsible for firearm administration, are guided by these sections.

Strengthening moral condemnation involves reinforcing the moral and social prohibitions against specific offences, such as putting up a sign in a shop announcing that shoplifting is stealing (Homel, 1996:116). This theory works more with the person's conscience. The FCA, in section 120, makes it an offence to give a firearm to a person who is mentally ill, intoxicated, is not by law allowed to possess such a firearm, leaves a firearm at a place where unauthorised people, including children, may access it, etc.

Controlling disinhibitors relates to minimising conditions that impair the ability of individuals to critically self-evaluate their behaviour, e.g. restricting access of firearms to a Firearm Free Zone

(FFZ) or Gun Free Zones (GFZ). Facilitating compliance involves making it easier for individuals to follow rules (Homel, 1996:116). Improving FFZ and GFZ checks in procedures denies potential firearm carriers an excuse of claiming to have forgotten to hand in their firearms at the reception safe.

Situational crime prevention brings with it hidden costs and benefits (Siegel, 2006:110). Siegel cites an example of a video camera installed in a mall to reduce shoplifting. He reports that in addition to addressing theft and robbery, other unintended crimes, such as damage to property (vandalism), will be addressed because would-be vandals will fear to be caught on camera (Siegel, 2006:111). The introduction of background checks and fingerprint elimination on firearm applicants in the Firearms Control Regulations, 2004, will likewise scare away people with violent criminal records and the at-risk group that depends on alcohol or drugs having a narcotic effect.

Situational crime prevention, as discussed above, focuses on preventing specific types of crime and criminal behaviour. It was, however, evident that no technique can successfully address situational crime if used alone. That is why the above multiple techniques need to be used together. Clarke (as quoted by Homel, 1996:128) correctly reported that situational crime prevention relies not upon improving society or its institutions, but simply upon reducing opportunities for crime.

4.4.2 Social Crime Prevention

Social crime prevention measures seek to prevent offending by changing the social, rather than the physical, environment in situational crime prevention. Social factors such as family background, schooling, income and employment, alcohol and drug abuse, peer relations, moral beliefs and other cultural influences, make it more likely that someone will commit crime. This approach is carried out by targeting anti-social behaviours and those at risk, as well as known offenders (Rogers, 2006:115). Rogers reports that the approach focuses on the development of schemes to deter potential or actual offenders from future offending.

Civilians, including children and youth, have become both perpetrators and victims of crime. Weiss (2003:10) is of the opinion that such a cycle of violence is perpetuated by, among other things, the easy availability of small arms. He adds that those who perpetuate conflict do so at the expense of the future generation's education and care. For children exposed to family violence, schools represent the only safe and secure context in their lives. The school can play a role in identifying those children exposed to family violence, and, with the police, introduce violence prevention programmes that endeavour to address the root cause of abuse (Lab, 1997:22). Generally, schools all over the world experience the common problem of serious injuries and killings as a result of firearm usage (legal and illegal). Violence may be the direct consequence of ingesting mood-altering substances like drugs that produce violent and aggressive behaviour (Siegel, 2006:333). Siegel reports that alcohol abuse is linked to violence, because it reduces cognitive ability and limits the capability for rational dialogue and compromise.

According to Laurie (1994:2), children in New York schools take firearms to schools for the same reasons that they do when carrying them outside school premises. The most prevalent reasons are protection, intimidation of others, or to be like their peers. Laurie reports that between 1986 and 1990, 65 students were shot dead and 186 wounded on school grounds around New York. He reports further that students found with handguns said they took these guns from their parents' homes or from friends. Laurie (1994:2) reports that some district schools introduced an immediate expulsion clause for students who were caught carrying a gun on school premises. Guns lobbies argue that expelling a student from one school to another or into the street, will only make them unstable and endanger society, while breeding a new population of violent children (Laurie, 1994:3).

The underlying phenomenon used in secondary crime prevention comes from the predictability of the onset of a criminal career, which lies both in the kind of child who will embark upon a criminal career and the age at which he or she will do so (Maguire et al., 1994:665). Maguire et al. argue further that those who are likely to be later classed as criminals, can be roughly identified quite early in life. In children, aspects such as parents with criminal

records, being troublesome in school at the age of eight, having low intelligence, and being subject to poor housing and child-rearing, are some of the indications. In adults that can take the form of having an unstable job record, low family income, and an anti-establishment attitude (Maguire, et al., 1994:666). Rogers (2006:115) believes that addressing these social factors will probably turn individuals away from criminality.

For children exposed to family violence, schools represent the only safe and secure context in their lives. The school can play a role in identifying those children exposed to family violence, and, with the police, introduce violence prevention programmes that endeavour to address the root cause of abuse (Lab, 1997:22). Schools in general experience a common problem – that of serious injuries and killings as a result of firearm usage (legal and illegal).

In the FCA, the introduction of background checks on firearms follows the social approach. It is a requirement in terms of the FCA, for the applicant to have two positive recommendations from neighbours, which, in essence, requires the firearm applicant to be of good social standing within the community. It is where aspects indicated above as determinants of at-risk individuals, will be considered when the applicant's character is established. The presence of two or more of those indicators may lead to further investigation or interviewing of additional references, e.g. a firearm applicant who is unemployed but living a luxurious life, being characterised as a good person by the references, will definitely be subjected to further investigation. The following discussions highlight some of the social support structures on different levels:

4.4.2.1 Social support structures: At-risk youth

It is generally accepted that modelling, in which a person learns to reproduce or copy behaviour exhibited by someone else, plays an important role in shaping his behaviour (Schiff & Louw, 2000:121). Laurie, (1994:97) highlights mentor programmes for at-risk high school youth from an area with a high risk rate of youth and violent crime. The programme involves pairing adult volunteers with the youth from high risk area to help the participating youth through developmental stage and emotional needs. Among risk areas, De Anda (2001:98) mentions potential school dropouts, criminal/delinquent behaviour, gang affiliations and substance abuse

(Laurie, 1994:98). She reports further that mentors can provide at-risk youth with both access to resources otherwise not available to them, and psychological and emotional support to foster behavioural and attitudinal changes. Schools in South Africa have introduced an adopt-a-cop system in schools for closer liaison between the learners, teachers and the school in general. Success of such mentoring programmes is not known, since limited research has been done in this area.

4.4.2.2 Social support structures: Family programmes

A community is formed by multiple families, and by saying the community is crime-riddled it means that specific families within the community are contributing to that. Domestic violence, for instance, is a learned behaviour that is modelled, rewarded, and supported by families and/r the broader culture. Wolfe and Jaffe (1999:135) report that children learn that aggression is appropriate to resolve conflicts, especially within the context of intimate relationships. Researchers have found that individuals who turn out to be batterers are mostly from families where the family father figures were violent (Wolfe & Jaffe, 1999:135). They believe that early intervention with those children is likely to restore normal developmental processes such as empathy and self-control, to prevent further harm that might be caused by exposure to abusive adult models. Some of the programmes discussed above, like social crime prevention, can be vital in family intervention programmes.

Anti-criminal family intervention at the primary prevention level involves working with families before delinquency problems appear. At the secondary level it involves working with the families of delinquents, as practiced in Tucson, Arizona, where parents and children were taught various behavioural contradicting techniques and eventually improved their behaviour and reduced delinquency on the part of the children (Walters, 1992:143). The Oregon Social Learning Centre in Salt Lake City developed a behavioural management family programme aimed at training parents and families in how to establish clear rules, monitor behaviour and make reinforcement contingent upon approved behaviour (Walters, 1992:143). As part of the programme, a 17-hour training course was offered to parents of highly aggressive children and teenagers, and targeted youth in ten treated families demonstrated a 60% reduction in aggressive

behaviour. Geffner (2000:41) suggests that the following support systems within the family are needed to restore a healthy family system:

I. Social support structures: Mother-Child System

Abused mothers require a diverse support in recovery from the battering and setting a new life as a primary caregiver of children. Interventions may take the form of individual counselling, sheltered living arrangements, counselling for the children, housing, and legal and financial aid (Geffner, 2000:42). He reports that to increase effectiveness of available support systems, the government needs to be active in promoting public service programmes that provide general education about family violence and increase awareness of the problem, and potential solutions. The above interventions are likely to prevent serious injuries and death resulting from domestic violence.

II. Social support structures: Father-Child system

Fathers are commonly the abusing party in the relationships, and their aggressive approaches often harm children as well. A careful consideration of the nature and extent of abuse within the family needs to be explored when treating an abusive man (Geffner *et al*, 2000:42). He believes they should focus on the aggressive behaviour directed at both the wife and the children, and a careful deliberation be made to determine whether the abusive father should be allowed supervised access. Mahamba (2007:5) tells of a Pretoria woman who was shot five times by her husband, after a protection order was issued against him. Mahamba is of the opinion that careful deliberation by the court could have saved the woman from fatal injury if her husband had been restricted sufficiently, his firearm confiscated, and section 102 unfitness enquiries as stipulated in the FCA, held. Schiff and Louw (2000:119) believe that a negative father-child relationship leads to later aggressive behaviour and can be used to predict future violent behaviour.

III. Social support structures: Siblings

For siblings with high levels of aggressive interaction, treatment efforts should take the form of positive problem solving and mechanisms to mediate the inevitable conflict between siblings. Family therapy must also be recommended to examine the family system that maintains a high

risk of sibling conflict (Geffner, 2000:42). Conflict among siblings normally turns ugly and may result in death or severe injury if not addressed correctly. Another important aspect is that siblings growing under those conditions tend to develop violent attitudes and eventually grow up to become violent adults.

The FCA does not make provision for aspects such as counselling, which is the key aspect towards fostering a mother-child, father-child and sibling support system. That grey area poses a serious challenge to the DFO to work jointly with other role players such as social workers.

IV. Social support structures: Community

Children's behaviours are influenced by the community they grow in, in the form of individuals within the community, neighbourhood, broader societal influences such as the media, etc. (Geffner, 2000:45). A neighbourhood with strong social bonds, which takes pride in their neighbourhood, is likely to have a low crime rate because the community pulls together and is able to resist crime and disorder (Rogers, 2006:115). There are community programmes such as general community recreational and sports groups in place to assist those children, but the challenges remains that children from battered families are often isolated and unable to benefit from those community connections. The basic requirement is that there must be appropriate and accessible community programmes for children of all ages. In comparison, community programmes cost very little and have been shown to be effective not only in engaging children, but also in reducing their behaviour problems in the community.

Geffner et al. (2000:46) report that there was a significant improvement in the attitude of children from battered mothers after counselling, and there was also an improved response to anger by these children on the programme. Through other social intervention initiatives, such as family support systems, father-child support systems, sibling support systems and community systems, children and young people can be shaped into responsible adults.

4.4.3 Rational Choice Theory

Rational choice theory was developed by the 18th century Italian social thinker Cesare Beccaria

(Siegel, 2006:98). He believed that people choose all behaviour, including criminal behaviour, and if fair punishment can be applied, people will be controlled by fear of punishment and refrain from committing crime. This theory believes that offenders (at-risk people) make rational choices to commit offences within the constraints of time, ability and the availability of property (Rogers, 2006:121). Becker, 1998 (as quoted in Rogers, 2006:122) argues that an individual will commit crime if the expected net benefit exceed the risk. Newman *et al* (1997: vii) agrees with Becker when he says that offenders make judgements about the costs and benefits of committing crime and they can be deterred by environmental changes. Rational choice theory deals with criminal decision making and how this is influenced by the offender's perception of risk, efforts and rewards (Newman et al., 1997: viii). Becker then argues that criminals are deterred from committing crimes by increased chances of being caught and punished, and the severity of the punishment (Rogers, 2006:122).

The rational choice perspective on crime portrays offenders as active decision makers who undertake a cost benefit analysis of presented crime opportunities (Newman, Clarke & Shoham, 1997:65). Newman et al. report that opportunities are either created by the offender, sought out, or may be taken as they occur. Cook and Ludwig (2000:30) further compare regulation of gun access and use in harm reduction strategy to the installation of airbags in motor vehicles. They give the following sequential event that leads to a shooting incident. They argue that the assailant must first acquire a gun and then bring it to the scene of the encounter before s/he can use it against the victim. They are of the opinion that law enforcement and the regulatory agency may intervene in any of the three areas before a firearm can actually be wrongfully used (Cook & Ludwig, 2000:31). Law enforcers are responsible for deciding who gets the firearm licences, and monitoring them, based on the stipulation in the FCA. Offenders generally seek to benefit themselves by their criminal behaviour, and that involves making decisions and choices (Newman et al., 1997:75).

Situational crime prevention operates closely with the rational choice theory which focuses on the way in which offenders makes decisions about offending in a specific situation (Preventing Crime in Australia ..., 2006:3). The document indicates that offenders make decisions to offend,

based on factors such as needs, risk involved, payoffs, etc. Newman et al. (1997:181) are of the opinion that availability of firearms - which can be regarded to be a situational factor - is an essential element in the interactions and circumstances that lead to an event, e.g. murder. They believe that the mere presence of the firearm is the driving force that compels the offender to use it. A generic aggressive encounter can be transformed into murder, when in the absence of a firearm the impulse would have been far less harmful (Newman et al., 1997:181). What disturbs most, according to Newman (1997:181), is that firearms are acquired for good usage like hunting and sports, but mentally ill people access them to commit disastrous crimes like murder, etc. Tonry and Farrington (1995:113) suggest that apart from reducing the availability of weapons, gun control would also remove inducements to violence. It makes sense to deduce that making crime more difficult to commit, increasing chances of being caught, and reducing the reward associated with the crime, will make it harder for criminals to commit offences and thus less crime is likely to take place.

It has been established that a firearm is the most dangerous weapon available to ordinary citizens in assault situations (Clarke & Felson, 1993:88). They believe that gun control form an integral aspect of situational crime prevention, since guns are used spontaneously, rather than planned, in domestic disputes. Clarke and Felson (1993:89) report that research was conducted in armed robbers in a West Australian prison. They report that the robbers had the choice of using a firearm and other weapons when planning their act. Those who opted to use firearms planned their robbery thoroughly, and were better aware of the maximum sentence rule than the knife-wielding group. Again, those who opted to use guns were introduced to guns by peer-group figures such as brothers, cousins, friends and persons involved in criminal activities with firearms. Non-gun-users were introduced to them by authority figures such as grandfathers, fathers, and uncles who had those guns for self-defence (Clarke & Felson, 1993:92).

Section 120 (5) of the FCA, makes it an offence to give control of a firearm to a person who is known to be mentally ill or to be under the influence of a substance which has a narcotic or intoxicating effect. This contravention is punishable by a prison term of three years. Subsection 10 of the same section makes it an offence to sell, supply or give possession of a firearm or

ammunition to a person who is not by law allowed to have a firearm, and is punishable with a prison term of ten years. Sanctions linked to section 120 are likely to deter the misuse of firearms and increase responsible ownership.

Sentencing can play a vital role as a deterrent in the rational choice of the violent criminal such as an armed robber. In the West Australian prison scenario, armed robbers gave due consideration to the consequences of being caught and the anticipated sentence, but chose to continue with their actions (Clarke & Felson, 1993:97). These authors report the following dynamics in the rational choice of criminals: During the planning stage, sentencing assumption is derived principally from the sentences that other gun-using criminals have received. They capitalise on inconsistencies in sentencing rules, and at the time of committing an offence, many offenders were under the influence of drugs (other than alcohol). Bandura (as quoted by Clarke & Felson, 1993:98) proposes a mandatory additional sentence for the gun use element of the principal user, to alter deterrence calculus.

Offenders make rational choices about the costs and benefits of committing crime, and that can be deterred by environmental changes to reduce criminal opportunities (Newman et al., 1997: vii). Newman (1997:viii) reports that situational crime prevention tries to reduce the criminal's choices by making environmental changes to reduce opportunities for crime. If the costs of committing crime can be seen to be higher than the benefits, then offenders are likely to stay clear of crime.

From the above discussion it is evident that secondary prevention deals with individuals who are in a situation where they are likely to commit offences. Remedial measures applicable to this level include: situational crime prevention, which involves manipulating the environment that gives the offender a platform to offend; social crime prevention, which addresses social problems that lead to offending; and rational choice that addresses the choices that the offender makes before the actual deed. As far as firearms are concerned, people who apply for firearm licences, and those already in possession of firearm licences, fall under the secondary level of crime prevention. If the environment and social factors surrounding firearm ownership and usage

thereof can be properly controlled, then the rational choice of firearm licence holders will be a positive and non-violent one.

4.5 TERTIARY PREVENTION

Tertiary prevention is a term taken from the field of medicine to describe procedures to be taken after a disease or threat has manifested, to deter or minimise harm (Crime Prevention Principles, 2004:3). The area of tertiary prevention involves, to a large extent, the criminal justice system, because intervention is reserved for individuals who have already violated the law (Lab, 1992:250). Brantingham and Faust (as quoted by Lab, 1992:13) are of the opinion that tertiary prevention deals with actual offenders and involves intervention in such a manner that those offenders will not commit further offences. Maguire, Morgan and Reiner (1994:660) report that tertiary prevention is focused upon the truncation of the criminal career in length, seriousness, or frequency of offending, i.e. it deals with the treatment of known offenders.

The article “Crime prevention offender reintegration and compatibility”(2004:2), defines tertiary crime prevention as a prevention strategy that focuses on the operation of the criminal justice system and deals with offending after it has happened, with the primary focus on the lives of known offenders in an attempt to prevent them re-offending. Smith agrees with Maguire et al. when he says tertiary crime prevention focuses on the operation of the criminal system and deals with offending after it has happened. He also believes that the primary focus of this form of crime prevention is on intervening in the lives of known offenders, in an attempt to prevent them from re-offending either through periods of incarceration, community-based sanctions or monitoring during periods of probation. Rogers (2006:113) believes that tertiary prevention focuses on reducing the criminality of people who are already assumed to be criminals, and also to prevent victims of crime from becoming repeat offenders/victims, e.g. restorative justice.

Examples of tertiary prevention include arrest, prosecution, incarceration, treatment and rehabilitation within criminal justice (Lab, 1992:14). Lab reports further that deterrence, incapacitation and rehabilitation form the cornerstones of tertiary prevention (Lab, 1992:250). He says further that deterrence seeks to keep offenders from future offending by imposing

punishment for their criminal behaviour. In relation to the FCA, sections 102, 103 and 120 make provision for punishment of individuals who transgress the FCA. In terms of both sections 102 and 103, the Registrar and the court may declare a person unfit to possess a firearm. Section 120 lists offences under which the court may prosecute transgressing individuals. True to the reactive analysis of tertiary prevention, as indicated by Lab, the above sections of the FCA also come into play after the individual has transgressed the law. Incapacitation involves issues such as imprisonment and rehabilitation centres and intervention aimed at changing the behaviour of offending individuals (Lab, 1992:250).

4.5.1 Government's role in restricting firearms to at-risk individuals

Violent crime is a threat to any peace-loving nation. The involvement of guns in violent crime is ever increasing and needs well-crafted policies to effectively control guns by limiting the availability of guns to high risk groups (Cook & Ludwig, 2000:30). Cook and Ludwig (2000:30) cite examples such as mandatory background checks on gun purchases, banning small, easily concealed handguns, intensive patrolling against illegal gun carrying, and the imposition of stiff sentences on those convicted of using a gun in crime, as the responsibility of government.

Cook (2000:85) report that the most fundamental job of government is to enforce the rule of law by, among others, deterring misbehaviour by punishing criminal transgressors. He reports further that the criminal justice system in the United States applies harsher sentences for serious crimes than they do for less serious crimes, to create disincentives to criminals. Rogers (2006:267) reports that England introduced the anti-social behaviours like drug dealing, and the nuisance that can be caused by young people with air weapons. He reports further that the Act supports action against gun crime by banning the possession of imitation guns and airguns in public places, without a good reason. The FCA also deals somehow with airguns and antique firearms (both de-regulated). In terms of Section 120 (3) and (4) of the FCA, it is an offence: to cause bodily injury to any person using a firearm, an antique firearm or an airgun; to discharge or handle a firearm, antique firearm or an airgun in a manner likely to injure another person; and, to handle a firearm, antique firearm or an airgun while under the influence of alcohol or drugs.

As part of the remedy, Cook and Ludwig (2000:117) suggest that harsh sentences be imposed to deter gun violence, policies of gun control be tightened to limit who may acquire a gun and what kinds of guns and ammunition are permitted to be sold, and to limit the practice of carrying a gun in public, as it attracts potential robbers. Specific deterrence refers to the efforts to keep specific offenders from violating the law again in the future (Lab, 1992:102). The idea, according to Lab (1992:102), is to punish the individuals who have transgressed so that they can refrain from future illegal activities. The apprehension and punishment of a single individual serves as an example to other offenders and potential law violators (Lab, 1992:102).

The effectiveness of deterrence relies on factors such as severity, certainty and celerity. Severity entails instituting punishment that provides enough pain (i.e. the elimination of the positive, pleasurable outcome of the activity, and replacing it with negative, unwanted pain). When considering severity in relation to the FCA, section 121 provides for a maximum period of imprisonment without indicating minimum sentencing. This is still open to judiciary discretion which will obviously differ from one presiding officer to another, resulting in inconsistency in imposing stiff sentences. The national policy on section 102 inquiry stipulates that a person who is found to be unfit to possess a firearm, at the board of inquiry, will be unfit for a period of five years. The policy does not provide the presiding officer with an opportunity to meet out a sanction that will equate the transgression.

Certainty deals with the chances of being caught and punished for one's behaviour (Lab, 1992:103). Lab is further of the view that the level of severity would have no impact on the decision making of an individual if that individual sees no chance of being punished. Celerity refers to the swiftness of the societal response, with the underlying assumption that punishment meted out long after the incident will not have the same impact as that imposed soon after the incident (Lab, 1992:103). The author maintains that the closer the pain follows the pleasure, the greater the chance that the individual will equate the two events.

The other approach involves working with those who have already offended or been victimised, to prevent further offending or victimisation (Preventing Crime in Australia ...2006:4). An

example may be sections 102 and 103 of the FCA which makes provision for the police commissioner and the courts to convene an inquiry into the fitness of persons to continue having a firearm after a licence was issued to them and they have contravened the provisions of the Act. Such firearm owners are likely to lose their licences and be compelled to dispose of their firearms if they are found to be unfit, thereby preventing them from further offending. For those who have already offended, rehabilitation strategies should be the correct approach.

4.5.2 Firearm Amnesty

In the months leading up to the first democratic elections in South Africa, the then Bishop of the Methodist Church of Southern Africa, Peter Storey, articulated his concern that easy access to guns, and excess guns in society, was one of the biggest threats to the emerging democracy (Kirsten, 2003:100). That led to the Minister of Safety and Security to declare the first firearms amnesty during the four years of negotiated settlement (1990-1994), over a period of three days (Kirsten 2003:100). Its main purpose was to remove excess weapons from a society that has engaged in low-intensity civil war for several decades (Kirsten, 2005:2). The second national amnesty was the 24-hour amnesty held on 16 December 1994, initiated by Gun Free South Africa (GFSA). The purpose of the 1994 amnesty was to put the issue of gun control on the political agenda, which eventually resulted in the Firearms Control Act (FCA) (Kirsten, 2005:2).

On 1 January 2005, the South African government launched the largest ever firearm amnesty (Kirsten, 2005:1). She reports that by 31 March 2005, which was supposed to have been the final date, 50 233 firearms had been surrendered, and on public demand amnesty was extended to 30 June 2005. The purpose of the 2005 amnesty was to recover illegal firearms and to provide firearm owners with the opportunity to hand in unwanted licensed firearms and firearms that were legal in the old firearms Act but illegal in terms of the FCA, e.g. inherited firearms (Kirsten, 2005:1). According to Kirsten, on 16 December 2004, 900 firearms, comprising at least 199 pistols and 42 AK 47s, 72 hand grenades and more than 7000 rounds of ammunition, were surrendered.

From the above discussion, it is evident that tertiary crime prevention entails remedial steps

taken to address wrongdoings, in order to curb and prevent recurrence thereof, or involvement in other illegal activities.

4.6 DIFFERENCES AND INTERACTIONS BETWEEN THE LEVELS OF THE MODEL

The three levels of crime prevention are all geared towards the same goal of preventing crime, but at different stages. Rogers (2006:113) is of the opinion that primary prevention is aimed at the general population, without any specific assumption of their propensity to commit crime, e.g., national television campaign about responsible firearm ownership. He reports that secondary prevention assumes that the audience is at risk in some way or other, and projects such as a firearm awareness campaign in a high risk area can help to address firearm-related problems. L'Abante (199:25) is of the opinion that the distinction between primary and secondary prevention lies with how risk and needs are defined. He reports that some authors define primary prevention as taking place with risk groups within the community, and others define it as any approach that reduces new instances of a disorder after it has been identified.

Tertiary prevention focuses on reducing the criminality of people who are already assumed to be criminals, and also prevents victims of crime from becoming repeat victims (Rogers, 2006:113). Gilling (1997:4) distinguish them in terms of sites. He reports that the site of primary prevention is ascribed to the general public or environment, the site of secondary prevention as those regarded as being “at-risk” of offending, and the site of tertiary prevention as those who have already succumbed to criminality or criminal victimisation.

In Britain it is reported that the police have taken the leading role in primary prevention; local authorities, social work and youth services have assumed a leading role in secondary prevention; and, the prison and probation services have led in tertiary prevention (Maguire et al., 1994:660). Maguire et al. (1994:665) report that while primary crime prevention focuses on explaining the distribution of crime events, secondary and tertiary prevention concentrate upon changing the expressed criminality of those who already have, or have a high probability of acquiring, a criminal identity. Walters (1992:141) describes it in greater perspective when he reports that

primary prevention is aimed at reducing the incidence and general prevalence of crime through modification of certain criminogenic conditions, whether these conditions are psychological, physical or interpersonal. In contrast, secondary prevention is concerned with the early diagnosis and treatment of nascent criminal behaviour. Tertiary prevention on the other hand encompasses rehabilitation efforts directed at long-term criminal cases. The following table summarises the three levels of prevention from a public health model perspective:

Table 4.3 A model for at-risk gun licence holders based on the Public Health Model

Primary (Targeted to population before offending/ victimisation occurs)	Secondary (Targeted to individuals at risk of offending)	Tertiary (Targeted to victims and perpetrators to prevent further offending and/ or victimisation)
<p><u>Infants and preschoolers (less than 5 years)</u> Pre-school visitation. DFOs and trained police officials warning children about the danger of firearms and giving out presents with firearm related message. <u>School age children (6 to 12 years)</u> -School based awareness and skills development: Collaborative efforts by schools and communities to teach violence awareness and alternative conflict resolution skills. -Demonstration on firearms to distinguish toy guns from real guns. <u>Adolescents and high school age youth (13 to 18 years)</u> – School-based awareness and skills development: Same as above with emphasis on issues related to conflict resolution training -Giving parents consistent parenting skills to reduce</p>	<p>Situational crime prevention <u>Increase the effort:</u> -Prohibit underage firearm ownership. - Declaring places like taverns and clubs gun-free zones. - Compulsory safe storage facilities -Community-based early intervention: Individuals who wants to own firearm licence must be exposed to background checks. -Strict regulation of primary firearm market sales -Government to reduce firearms in circulation by buying back firearms in excess. <u>Increase the risk</u> Entry/ exit screening into public buildings reinforced by metal detectors. <u>Reducing rewards</u> Marking of properties like</p>	<p>Government’s role in firearm restriction –Well-crafted firearm policies (firearm administration and control). -Banning of air-guns and toy guns. - Imposing harsh sentences to deter future illegal activities.</p>

individuals' risk level. <u>Adults (18 Years and older)</u> Public education: Media campaigns promoting awareness of FCA and providing information about basic FCA provisions.	firearms	
	Rational Choice Theory - Increase the severity of punishment for FCA transgressions. -Reduce firearm availability by approving fewer licences.	Firearm Amnesty Regular amnesties to remove excess and firearms that have become illegal with law changes.

Source: adapted from Wolfe and Jaffe (1999:137)

The above discussion indicates clearly that the three levels of crime prevention complement each other in fighting crime and rooting out the country's criminal elements. One level of prevention flows into another, and some activities incorporate more than one level. An example of a short term and urgent situation can be where the police and justice department deal with an individual who has transgressed the FCA by arresting him, prosecuting him and declaring him unfit to possess a firearm. On a medium term, based on current request like a firearm applicant who applies for a firearm, the police need to screen the applicant through fingerprints and background check to establish his suitability to possess a firearm. On a long term basis, children, youth, and the community at large need to be educated on firearm policies so that they can develop into responsible generation or community.

4.7 CONCLUSION

In this chapter, focus was on the prevention strategies that are available to fight crime. It emerged that there are three levels of crime prevention, namely primary, secondary and tertiary prevention. Primary crime prevention is proactive in nature because it involves actions that are taken before any specific incident of crime can take place. Secondary crime prevention also takes place before any crime takes place, but at this level the focus is on specific individuals because of risk factors that are likely to lead to criminal activities. This level mostly involves the sifting out of potential offenders such as firearm applicants who are deemed to be at risk of misusing firearms. Tertiary crime prevention is reactive, because it comes into play after a crime has been committed, with the purpose of preventing the offender from committing the same or other crimes. The three levels complement each other and can all be applied in the restriction of at-risk individuals from accessing firearms.

PRESENTATION OF THE RESEARCH FINDINGS

5.1 Introduction

This chapter describes and illustrates data collected from a random sample of firearm owners exposed to the Firearm Control Act (FCA) 60 of 2000 in the Pretoria North Firearm Registration Centre (FRC) cluster area, as well as an applications analysis of processed firearm applications. In random selection, each element has an equal chance of being selected, independent of any other event in the selection process (Maxfield & Babbie, 2005:221). Data was also collected through interviews with different role players in the Pretoria North FRC policing area (see paragraph 1.6.2 above). The general impact that the Firearm Control Act 60 of 2000 is making in restricting at-risk individuals from owning guns in the Pretoria North Firearm Registration Centre policing area, will also be discussed in this chapter.

5.2 Data Analysis

The researcher analysed data using frequency distribution. According to Hagan (1997:314), frequency distribution is a procedure in which data is arranged in a meaningful summary table for easy interpretation. Champion (1993:273) describes frequency distribution as arrangements of raw scores presented in percentage format from high to low in accordance with intervals and designate size. Frequency distribution analysis helps the researcher to categorise and group data for easy analysis and interpretation, and the groupings cover the whole spectrum with the usage of over and under categories (Hagan:1997:314).

To have a better understanding of various constitutive elements of data obtained, collected data was broken up into manageable themes, patterns, trends and relationships. The research approach and design were therefore triangular, as qualitative measures were combined with quantitative measures to enrich data. Questionnaires, as per Appendix B, were distributed through the firearm training providers, firearm dealers and Pretoria North FRC as discussed later in the chapter, and were all analysed in the above-mentioned context. One hundred and thirteen of the questionnaires were completed and collected. Data collected is described and illustrated below.

5.3 Analysis of feedback from Questionnaires and Interviews

The researcher conducted interviews with all relevant role players that play a significant role in the enforcement of the FAC, particularly restriction of firearms to at-risk individuals in the Pretoria North FRC policing area. The interviewees were persons who were actively involved in the introduction of the FCA, as well as those who are responsible for the day-to-day administration of the FCA at provincial as well as FRC level, and also officials from court.

The discussion that follows summarises feedback as received from Pretoria North FRC per category. It starts with the transitional provision that was taken to move to the FCA, the amendments to the FCA, information on respondents, firearm applications and the unfitness declaration records.

5.3.1 Analysis of firearm information in the Pretoria North FRC area

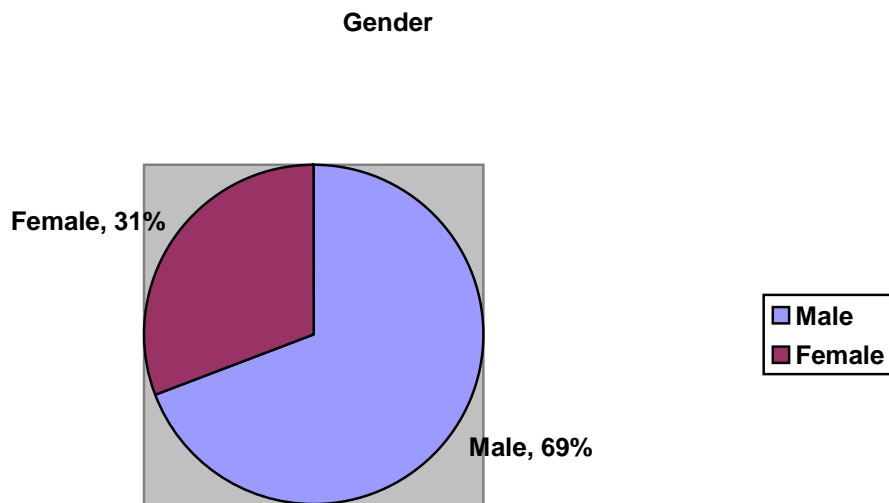
Information that was gathered in this research will be analysed in the paragraphs that follow hereafter. It will include detailed information on firearm owners, the type of firearms they possess, and the firearm administration process, with specific focus on restricting at-risk individuals from possessing firearms.

5.3.1.1 Information on firearm owners

Figures 5.1 and 5.2 as well as Table 5.1 illustrate the respondent's gender, race, age group and policing area where they reside within the Pretoria North FRC policing area.

The gender of victims as indicated in figure 5.1 is not evenly distributed when the data about respondents who applied for new/renewal firearm licences for the period July 2004 to December 2006, is analysed.

Figure 5.1 Respondents' gender

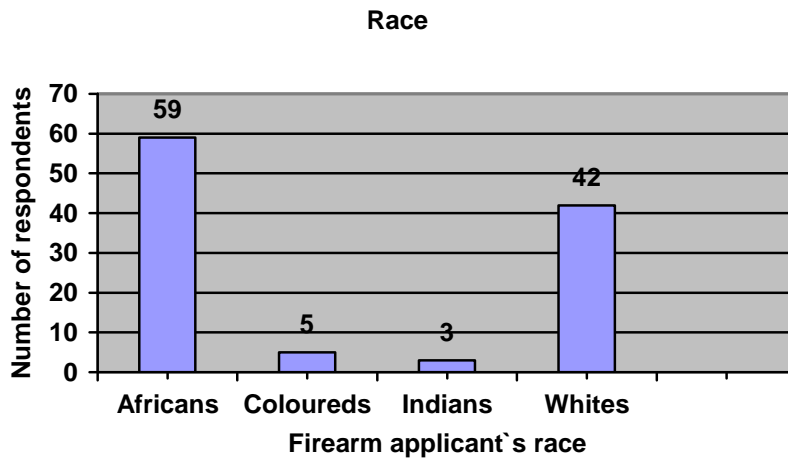


Source: South African Police Service: PTA North firearm applications register

According to Figure 5.1, 31% of respondents who applied for new/renewed firearm licences were female and 69% were male. The gender distribution of respondents is therefore not evenly distributed.

The geographical area of this research covers both areas that were traditionally exclusively African (townships) and exclusively White residential (suburbs) areas. A total of nine policing areas fall within the research area and only two of the nine are townships. The respondents' racial groups however, reflect a different picture in relation to the geographical layout.

Figure 5.2 Respondents' race



Source: South African Police Service: PTA North firearm applications register

According to Figure 5.2, 53.98% of respondents for new/renewal firearm licences were African and 42% were White. In line with the geographical layout as explained above, the expectation was to have more White respondents than Africans. Coloureds and Indians recorded 5% and 3%, respectively, from respondents who moved into the traditionally White suburbs.

The biographical information indicated in the table below includes gender and race as discussed above, age groups of new/renewal firearm respondents, and the policing areas of Pretoria North FRC.

Table 5.1: Firearms respondents' biographic information

Heading		Figures	Percentage
Gender	Male	78	69.02
	Female	35	30.97
Race	African	61	53.98
	Coloured	5	4.42
	Indian	3	2.65
	White	44	38.94

Age group	Under 30	12	10.62
	31-35	29	25.66
	36-40	38	33.62
	41-45	27	23.89
	60+	7	6.19
Policing area	Pretoria North	28	24.78
	Akasia	14	12.39
	Soshanguve	18	15.93
	Rietgat	16	14.16
	Wonderboompoort	6	5.31
	Kameeldrift	6	5.31
	Hammanskraal	12	10.62
	Pretoria Moot	7	6.19
	Sinoville	6	5.31
Total		113	100

Source: South African Police Service: PTA North firearm applications register

Some questionnaires were completed face-to-face with the respondents, and due to time constraints and other inhibiting factors as discussed previously in paragraph 1.8, the approach was later adapted (see paragraph 1.8). The second approach involved distribution of questionnaires at the firearm training providers as central points which applicants (respondents) visit for their proficiency certificates (training in the theoretical and practical usage of firearms). It was later discovered that applicants who visit training providers were not exposed to the whole new/renewal firearm process. Aspects such as background checks and fingerprints, which are core restricting tools, are conducted after the applicant has successfully completed the proficiency training. The questionnaires were then taken to the Pretoria North FRC to be voluntarily completed by applicants who visit the centre to renew their firearm licences, apply for new firearm licences, make any firearm-related enquiries or administration, provided they have already been exposed to the FCA process and fall within the target group.

The highest response was received from Pretoria North police area with 24.78%, followed by Soshanguve with 15.93%, with Akasia following at 12.39%. Areas like Kameeldrift, Sinoville

and Pretoria Moot responded poorly with 5.31%. Traditionally African areas such as Soshanguve and Rietgat contributed to 30.09% while the seven traditionally White areas contributed to 69.91%.

Response from men was an overwhelming 69.02% compared to 30.97% from women. In Chapter 3 firearms were reported to be part of White culture, but unlike that reported norm, Whites' response was 38.94%, compared with 53.98% from Africans. Coloured and Indians justified the minority proportion of their population in that area, with 4.42% from Coloureds and 2.65% from Indians.

Most firearm owners and new/renewal firearm respondents were middle-aged persons between 30 and 40 years old, with 59.28%. This can be attributed to the fact that this age group is economically active and still energetic enough to move around. Least on the age groups were youth under 30 years with 10.62% and senior citizens above 60 years with 6.19%.

5.3.1.2 Type of firearms possessed

Table 5.2 below reflects respondents' firearm ownership in terms of type, reason for owning that firearm and the period of ownership:

Table 5.2 Firearm ownership

Heading		Figures	Percentage
Type of firearm	Handgun	34	30.09
	Shotgun	5	4.42
	Rifle	7	6.19
	Hand Carbine	0	0
	Other (multiple Handgun, Rifle and Shotgun)	27	23.89

Reason for owning	Self-defence	71	62.83
	Work	18	15.93
	Sport	3	2.65
	Hunt	7	6.19
	Collection	0	0
	Other multiple usage (Self-defence, hunt and work)]	11	9.73
Time frames of ownership	Less than 2 years	8	7.08
	3-5 years	32	28.31
	6-10 years	32	28.31
	11-15 years	15	13.27
	15+	22	19.47

Source: South African Police Service: PTA North firearm applications register

Table 5.2 above illustrates that the most commonly possessed firearm is a handgun, with 30.09%, followed by multiple firearm owners comprising handgun, rifle and shotgun, amounting to 23.89%. Those who possess rifles only amount to 6.19% of the sample, while shotgun owners are at 4.42%. No records of hand carbines were recorded. The high percentage of handguns is as a result of the 53.98% of Africans who responded to the questionnaires. Most Africans do not fall in the categories of hunting, sport shooting and firearm collections where rifles and shotguns dominate.

Common reasons given for owning a firearm were self-defence at 62.83%, followed by those who use their firearms for work at 15.93% and multiple usages such as self-defence, hunting and work at 9.73%. Hunting and sporting respondents were the least, with hunting having 6.19% and sport 2.65%.

The majority of them had had their firearms for a period of between 3 and 10 years, with both periods 3-5 years and 6-10 years reflecting 28.31% ownership. Veterans with more than 15 years stood at 13.27%. Newcomers to firearm ownership with less than 2 years, constituted 7.08%.

5.3.1.3 Public knowledge of the FCA

There was a mixed reaction from the DFOs on the public's knowledge of the FCA. Eighteen of the DFOs felt that people from urban areas and firearm owners from rural areas know the basics about firearms. They felt that most people who lack knowledge are from the rural areas. In the urban areas, non-firearm owners are just not interested in the FCA, while some firearm owners are against the limitation to the number of firearms that may be possessed. Some DFOs felt further that the initial reluctance that existed in the beginning has lessened now, and people are coming forward to renew. A Superintendent from CFCR Gauteng region made this comparison: "Firearm owners know about the basic FCA as motor vehicle owners know the basic rules of the road". The remaining two DFOs felt that more campaigns are needed and they believe that the general public are ignorant of the FCA. The two argue that the incidence of firearm misuse are still reported in numbers, and that can be blamed on a lack of knowledge on their part.

Respondents were also asked to give their perspective on their knowledge and the public's knowledge of the FCA, as well as the impact that the Act has on restricting the gun ownership of at-risk individuals.

The overall response from new/renewal firearm respondents indicates that general knowledge of the Act is good and it stands at 78.76%, compared to 0.88% with poor knowledge. Public knowledge stands at 44.51% good, 12.39% fair and 13.29% poor. 20.35% of the respondents were unsure. There is a difference of 34.25% between new/renewal firearm respondents and the general public, that can be attributed to training that the former receive when applying for a proficiency certificate at firearms training providers.

Respondents indicated to still have faith in the police, by rating them 65.48% good in enforcement and 3.54% poor. The courts were rated 7.08% below the police, with 58.40% good and 5.31% poor; 23.89% of the respondents were unsure of how the courts are implementing the FCA.

Background checks and fingerprints were both accepted as effective tools to restrict at-risk individuals from owning firearms. Fingerprints were rated 18.59% above background checks, with fingerprints 87.61% good and background checks 69.02%. The five-year renewal intervals were rated 71.68% good and 8.85% poor. In all categories the difference between good and bad went to respondents who were unsure of their ratings.

Prosecutors at both the Soshanguve and Pretoria North courts felt that the public do not have knowledge of the Act. According to one of the prosecutors in Soshanguve, cases that go through their courts are too trivial and reflect a lack of knowledge on the part of those who report them and the perpetrators. They do not put blame on anyone and they believe that like with any other Act, the FCA will take time to become accepted by the public.

5.3.1.4 Respondents' opinion on the FCA

The following discussion summarises what the new/renewal firearm respondents suggest need to be improved or changed in the FCA. Almost 55.75% felt that nothing needs to be changed, and are presumed to be happy with the FCA. One respondent even said: "I was scared that I was going to lose my rifles, which did not happen". One similar comment from an elderly respondent was: "Initially I was negative, but am more positive after going through the process". The other 25.44% did not have specific problems with the FCA but with the administration involved. They raised aspects such as that the process need to be shortened, which contributed to 1.77%; a further 1.77% felt that applications of individuals who are using firearms for business, such as dedicated hunters, need to be fast-tracked. Administratively, 21.31% felt that firearm administration must be decentralised to allow all police stations to process firearms; the SAPS to involve private sectors like organisations involved in firearms, to assist in filling in the forms and verifying information; the SAPS to introduce a compressed single form that will cater for multiple forms that they as respondents had to fill in and which sometimes go missing before they reach the final processing point; couple forms with technology like computers; and, pre-type forms and allow respondents to tick and verify information. There was 1.77% who felt that police would not clarify their questions and were not friendly to them. Security was also raised as a concern. About 5.30% of respondents felt that a background check with neighbours

compromised their security. They were of the opinion that police should choose additional references.

Most respondents were not keen to give suggestions on what can be done to improve the current firearm licence/renewal process. A total of 55.75% gave no suggestions at all. The remaining 44.25% gave multiple inputs ranging from “process needs to be shortened”, “stop interview with neighbour”, to “decentralise firearm application process”. Inputs that attracted reasonable responses in this category include, among others, “involve organisations in the renewal process”, “resource the FRC to cope with pressure, (as one respondent said, “employ more people to speed up process and help save this multi-million industry”)", “introduce one form for all” at 3.54%, and “embark on vigorous awareness campaigns informing the public on renewal requirements”, “follow the traffic department way of renewal by renewing only the competency or the licence and not both” at 2.65% and “do the whole firearm application process on the system and introduce morph-touch system instead of manual fingerprints” also at 2.65%. Those who are satisfied with the process even suggested that renewal be shortened to two-year intervals.

From the above, the deduction that the researcher makes is that respondents in Table 5.3 do not have serious problems with the FCA, but with the process. According to Knutson and Clarke (2006:112) government agencies have a common practice of raising program delivery standard at the helm of the organisation and then put amateurs in charge of delivery. Approximately 27% of the 113 respondents gave inputs that have a bearing on the Act, while the other 33% commented on the general firearm application process. On the Act itself, respondents want, among others, that the Act make provision for the renewal of either a competency or firearm licence and not both. Others feel that the competency certificate should be restricted to new applications.

Among those who want the application process changed it was suggested that the police stop interviewing neighbours as part of the background check, as it infringes their private affairs. Others want the firearm administration to be decentralised and allow all police stations to process applications. They are further of the opinion that accredited associations can help the police with aspects such as form completion and information verification. Respondents believe that the process can be made smarter by discontinuing the forms and make use of advance technology in

the form of computers or pre-typing applicants' particulars on application forms, as do the traffic department in motor vehicle re-licensing.

5.3.1.5 SAPS's role in raising community awareness about the FCA

Pillar 4 of the firearm strategy made provision for the prevention of crime and violence prevention, through awareness and social crime prevention partnerships. This involved that the SAPS undertook to raise the level of awareness and prevent crime. According to the DFOs interviewed, all twenty agreed that there were imbizos, awareness campaigns, printed and electronic media press releases. The above statement was echoed by Director Bothma when he said: "The SAPS conducted awareness campaigns, information sessions, distributed pamphlets, brochures, media statements, radio talk shows, participated in TV broadcasts, established national forums with specific interest groups". What some of them rose as a concern was non-continuity to the good work started. They were of the opinion that similar exercises were supposed to be done at least every year. One firearm owner remarked, "When pamphlets are distributed it only explains when to renew, cut-off date, maximum amount of firearms to be renewed, but nothing about restrictions as contained in the Act".

Most prosecutors did not know what the police did to raise awareness, and some felt it should not only be the police's responsibility to raise awareness, but other state departments should also be involved. One prosecutor was adamant that the government was not doing enough to enlighten the community. He said, "I strongly feel the way government is engaged in aids awareness, it should do the same with the FCA".

5.3.2 Legislative provision in relation to firearm control in South Africa

This chapter deals with legislation regulating firearms in South Africa, from the transitional provision, amendments and the FCA. A detailed discussion follows.

5.3.2.1 Transitional provision leading to the FCA

The transitional provision refers to the process undertaken to swiftly move from the Arms and Ammunition Act 69 of 1975 to the FCA 60 of 2000. This was basically to allow firearm owners,

dealers, manufacturers and any other individuals or institutions involved with firearms, to align themselves with the FCA.

According to the head of the CFCR, the South African government started reviewing firearm legislation with a draft firearm control policy in 1995. He said that based on the said policy, which focused on strict control and administration of firearms, the process of drafting the new legislation commenced in 1998 after a comprehensive consultation process with all relevant stakeholders and interest groups. He continued to say: “Based on the contents of the Firearms Control Act 60 of 2000, a drafting process was followed during which the Firearms Control Regulations, 2004 was compiled and after extensive consultation it was approved and operationalised on 1 July 2004”. Thirteen of the 20 DFOs interviewed explained that the DFOs were appointed and trained in terms of the FCA, and the transitional provision followed. A senior superintendent at the Central Firearm Control Register’s policy development office was more specific when he said: “The date for implementation was set for 1 July 2004, in order to ensure the smooth implementation of the FCA and an operational manual was compiled which entitled the various processes to be completed; The Enhanced Firearm Register System was activated on 1 July 2004 to capture and receive applications; and extensive communication with the DFOs followed.”

Other DFOs indicated that an audit was conducted on people with ten or more firearms, and amnesty was declared to allow firearm owners to align themselves with the FCA.

All six interviewed prosecutors in the Pretoria North FRC’s policing area, reported that they were either workshopped or attended a work session on the FCA at their work-places. They reported that most processes and section contents were almost the same and needed minor adjustments. The chief prosecutor of Soshanguve indicated that they received an order to finalise all cases opened prior to the FCA, in terms of the Arms and Ammunition Act. Only contraventions of the FCA were supposed to be handled in terms of the FCA, 60/2000, he concluded.

5.3.2.2 Amendment to the FCA

The amendment to the FCA was meant to amend, delete and/or insert certain definitions, sections and sub-sections of the FCA, to provide clearer meaning to the specific definition, section and subsection, and/or to align the FCA with other Acts like the National Heritage Resource Act, 1999; National Conventional Arms Control Act, 2002; etc, that had bearing on the FCA.

The head of the CFCR indicated that “[t]he Amendment Act specifically catered for shortcomings that were identified during the implementation and operationalisation of the Firearms Control Act, 2000 and to enhance the smooth implementation of the said legislation”. Eight of the 20 DFOs interviewed felt that the FCA had loopholes and grey areas that needed to be closed through the amendment. They highlighted aspects such as: the ‘professional hunters’ category which was missing in the FCA; defining muzzle loaders and making it an offence to possess one without a licence; extension of licence validity and renewal of competency; clarification of aspects such as automatic unfitness to possess a firearm and the holding of a section 102 enquiry in the absence of the respondent, in certain instances; and, definition of airguns and apprenticeship of gunsmiths. The provincial head of Gauteng province said, “You don’t fix something that is not broken. The initial consultation process was not broad enough and it lacked valuable inputs from important role players in the firearm field like collectors and professional hunters. The amendments were meant to fix the broken link”. One of the commanders from Gauteng province said “[t]he FCA was factually challenged by role players with a keen interest in firearms and the minister was fair enough to allow ‘justness’ to take place. Practical issues like non-declaration of the professional hunters category were addressed and the police had an opportunity to marry firearm forms with the firearm system.”

Four of the six prosecutors interviewed felt that the amendment to the FCA was probably more of an administrative problem that the police encountered. They, together with the other two, do not know the real reason behind the amendment. The chief magistrate of Soshanguve court just said, “[w]e were informed accordingly about the changes”.

5.3.2.3 Effect of amendments on firearm administration

Seven of the 20 DFOs interviewed felt that certain administrative areas were improved. Most of them singled out the cancellation process of applications that was not as clear in the FCA as a solution to their problem. The provincial commander of Gauteng emphasised that some of the amendments resulted from inputs from the DFO as a result of a mismatch between theory and practice. He cited the introduction of “Annexure A” to the renewal application form (SAPS 517E) as an example that helped the DFO in processing applications. Six of the DFOs felt that the amendments confused the members because members always had to adjust to a new way of doing things. The head of the CFCR is of the view that the Amendment Act enhanced the administration processes of firearm applications in many ways, such as the renewal of firearm licences, permits and authorisations, additional categories of possession such as that of the professional hunters. He continued to say: “It also contributes to more severe control in that a person must have a competency certificate to possess a muzzle loading firearm as defined in the Amendment Act, silencers, etc”.

“Prosecutors are not responsible for administration of firearms but prosecution of firearm related transgressions”. Those were the remarks from one of the prosecutors from the Soshanguve court that also serves Pretoria North FRC. Generally, all six prosecutors felt that the amendment did not affect their work and they just continue as normal with their work.

5.3.3 People at risk of possessing firearms

Different DFOs had a different way of describing at-risk individuals, and responded as follows: Thirteen felt that a mentally ill person is definitely an at-risk person. Their argument is based on the individual’s ability to make a sound decision. Three of the DFOs felt that an aggressive and violent individual will definitely harm people if entrusted with a firearm. Five ascribe it to people who have been declared unfit in terms of sections 102 and 103 of the FCA, and those convicted in court for violent offences and domestic violence related transgressions. Others felt that the following people also fall in the category of at-risk individuals: People dependent on drugs; people who do not have a competency certificate; people under the age of 21; people who had a protection order issued against them; people who have expressed the intention to kill or injure themselves; people who have failed to keep their firearms safe; people whose possession poses a

threat to themselves, people and/ or property around them.

An interesting category of people regarded to be at risk by the DFOs includes people who are physically challenged, e.g. blind people, people with deformed hands and fingers, people who are not permanent citizens of South Africa, people without training (licence), very old people, sick people such as those with epileptic fits, people who are having stress and depression, and employees on suspension for misconduct.

All court officials interviewed aligned themselves with what the DFO regarded to be at-risk individuals. They also listed people with criminal records, drinking problems, drug abusers, violent individuals and insane people as at-risk individuals.

Fourteen DFOs interviewed felt that the FCA is sufficiently restricting at-risk individuals from possessing firearms. They believe that the FCA compels firearm owners to have a competency certificate which makes them competent to safely handle the firearm after completing both the theoretical and practical training. People declared unfit will not be allowed to have a firearm for a period of five years, whereafter they must reapply; firearm owners are compelled to have firearm safes which, in essence, makes their firearm safe; and, the screening process introduced in the FCA with the background checks where neighbours and spouse are interviewed as character references.

Six other DFOs felt that the FCA is not sufficiently restricting at-risk individuals from possessing firearms. They cite, among others, the following reasons: stressors and employees on suspension are not restricted from having their firearms while stressing; the FCA does not compel the doctors to provide medical reports on stress and psychiatric patients (stability of their mental conditions).

The legislation makes provision for the applicant to submit his/ her application form to a Designated Firearm Officer (DFO) close to where he lives. This was done, according to Mistry, Minnaar, Redpath and Dhlamini (2002:32), on the assumption that local police are in a better

position to know if the applicant is a responsible member of the community or not. One DFO remarked that centralisation of firearms administration to the Firearm Registration Centres (FRC) took away the local police knowledge of negative things about the applicant’s behaviour, drinking and domestic violence, which may be known by the local police.

All six prosecutors felt that the FCA makes enough provision for the restriction of at-risk individuals from owning firearms. One prosecutor from Pretoria North even remarked that “[t]he FCA will be a waste of the paper it is written on if law enforcers don’t enforce it properly.”

5.3.4. Effectiveness of firearm administration process

New/renewal firearm respondents were also asked to comment on the firearm administration process. Just over half (53.98 %) felt that the process was good.

Table 5.3 Firearm administration process

Heading	Figures	Percentage
Respondents s feeling about firearm administration process		
Good	61	53.98
Process too long	9	7.96
Not so good	10	8.85
Waste of time	2	1.77
Fair	2	1.77
“Waarom al die papiere”	1	0.88
Too expensive	1	0.88
Still complicated	1	0.88
Speed up the process	1	0.88

Source: Research questionnaires

The remaining 46.02% gave various reasons that are not necessarily related to each other. 7.96% are of the opinion that the process is too long, 8.85% said the process is not too good, and 1.77% felt the process is a waste of time. The other 3.52% gave reasons which included: fair, too much paper, too expensive, process complicated, and, process needs to be speeded up.

The majority of respondents, especially those who owned a single firearm each, were happy with firearm administration in general; 54% felt good, compared to 8.85% who did not feel good, and 1.77% who felt the process was a waste of time.

5.3.4.1 Effectiveness of the police in restricting at-risk people from possessing firearms

The police have important powers to exclude people who are unfit to possess firearms, in their control over the issuing of firearm licences and in their capacity to declare a person unfit to possess a firearm. The FCA does, however, according to some of the DFOs, restrict the police in using their discretion. They argue that they can only refuse licences in terms of the rigid guidelines set by the Act, which sometimes results in their discretionary refusals overruled by the firearms Appeal Board.

The majority of DFOs interviewed believe that since the centralisation of firearm administration, the police are not doing enough to restrict at-risk individuals from possessing firearms. Sixteen DFOs felt that the police still need to do more to properly administer firearms. Reasons given are: Some DFOs do not physically visit the references when conducting interviews. They resort to telephonic interviews which can be unreliable, leading to incompetent or at-risk persons obtaining a firearm. They also feel that DFOs are not trained in conducting proper interviews and can therefore not tell if a person is telling lies about the applicant. They argue that while DFOs check the domestic violence register for records that necessitate section 102 enquiries, that object is sometimes defeated in cases where applicants may be perpetrating domestic violence in a police precinct outside the FRC cluster which may not be known to the FRC processing the firearm licence application. They feel that the systems need to be interlinked nationally, for easy reference.

They also blame a lack of team effort in the whole process. Police top management apparently do not provide DFOs with enough resources to fulfil their mandate. They do not have enough vehicles to drive around doing safe inspections and do not have enough scanners to timeously scan each application, as expected. Some of the DFOs from Pretoria North FRC remarked that “[w]hile safe inspections and face-to-face interviews are vital for final recommendation of the

firearm application, we just don't have the manpower to do all these things." On the other hand, they felt that other police departments such as the detectives regard everything to do with firearms to be the DFO's responsibility. They also fail to secure the identity number of offenders who are sentenced for Schedule 1 offences, where unfitness declaration has to be recorded. That, according to one of the DFOs from Pretoria North, makes the capturing of the unfitness impossible.

The other four respondents felt that the police are doing their best in restricting at-risk individuals from possessing firearms. They believe that through search and seizure, declaration of licence holders unfit to possess firearms, and investigation of negligent loss and theft of firearms, the police are doing what they are supposed to do. The FRC commander of Pretoria North believes that the police are doing enough with section 102 enquiries. He said: "[p]olice can add value if the court can do their part in as far as section 103 is concerned." He continued to indicate that if the courts omit to declare a person unfit, it pushes the responsibility onto the police to initiate and hold a section 102 hearing, which adds to the police's existing backlog. Others felt that some DFOs conduct proper safe inspections and background checks, and they do report negative findings, if any, which in turn guides the FRC commander in writing his final recommendation to the deciding officer. The DFO argues that "[t]here is no way that we cannot do safe inspection, because we must complete a firearm safekeeping certificate which requires specific details of the residence and the safe itself." DFOs report that it is compulsory to do a face-to-face interview with the spouse of the applicant. They indicated that while visiting the applicant's house they can do both a safe inspection and a spousal interview. They said this also affords them an opportunity to pick up signs of domestic violence, like broken doors, furniture, etc. during the visit. The provincial commander further believes that centralisation of duties, as it is happening in Gauteng with the FRC model, is building competence capacity, and skills are constantly being developed through formal training and in-service training.

There were mixed feelings by the prosecutors on the issue of police effectiveness. Two prosecutors felt that the police were doing their best, while the other four felt otherwise. They complained that some detectives are overdoing what they are supposed to do. They accused them

of sending minor cases to court - which results in backlog. “Cases like failure to disclose criminal records in the application form by the firearm applicants needs to be dealt with at the DFO level either in the form of a fine or other administrative process”, responded one of Pretoria North prosecutor. They insist that from their side, SAPS 69 forms are completed and handed over to the investigating officers with the dockets for further processing. “I am not too sure if the investigating officer follows up on the court order. We endorse unfitness declaration on the docket and SAPS 69 and give it to the police. If the investigating officer is not doing his job, unfitness declaration is likely not to be picked up and it may end up not being captured.” This was the specific response of a prosecutor from the Pretoria North court.

Prosecutors who felt that police are not doing enough, raised issues such as poor investigation by the detectives, which leads to cases being thrown out of court, eventually making no provision for a section 103 enquiry. They also blamed lack of police follow up on cases withdrawn in court to be contributing to firearms landing in at-risk hands. They remarked that many violent cases are withdrawn in court on technicalities such as: witness not in court, docket not in court, etc. One prosecutor remarked that “[w]here a murder case is withdrawn, let’s say because the witness disappeared, the firearm is simply given to the accused even though it is clear that the firearm was used in the murder”. He indicated that the problem is that because there is no conviction of the accused, eventually the issue of unfitness never actually comes up at all. One prosecutor said, “Detectives don’t discuss aspects of section 103 with the prosecutors unless it is a high profile case”. He is of the opinion that communication between the SAPS and the court needs to be improved for effective restriction. According to the aforementioned prosecutor, it will simplify matters if the investigating officer can attach an endorsement or affix a letter to the docket, requesting a prosecutor to ask the court for an unfitness declaration. Prosecutors in general did not seem to know exactly what the duties of the DFOs are, except for the investigating officers to whom they relate on a daily basis.

5.3.4.2 Effectiveness of the court in restricting at-risk people from possessing firearms

Magistrates are the presiding officers for all matters held in the regional and district courts of South Africa. It is therefore their duty to apply the law, particularly the provision of section 103

of the FCA which emanates mostly from contraventions in section 120 of the FCA. Prosecutors are an important part of the criminal justice process and link up with the police to ensure that at-risk individuals are declared unfit to possess firearms. Prosecutors present the evidence collected by the detectives and argue principles of law before the court. As a result the prosecutor's role is linked to the duties of detectives and cannot be seen in isolation.

The DFOs interviewed had mixed feelings on the court's effectiveness in restricting at-risk individuals from possessing firearms. Twelve of the DFOs felt that some courts still ignore the provisions of the FCA when dealing with violent cases in court. They do not apply the provision of section 103, thereby adding to the police backlog, as it then becomes a section 102 enquiry for the police. The DFOs also raised a concern about some court officials who fail to secure the identity numbers of people found guilty in court. They argued that it makes it difficult to capture such unfitness declaration on the system. A DFO from Soshanguve remarked that "[c]ourts tend to focus only on cases where firearms are directly involved to convene a section 103 hearing". He continued to say: "[s]ometimes they make awkward decisions by finding a person guilty for a violent crime in court, but make a ruling that he is fit to possess a firearm." One DFO sounded ironic when he remarked, "How do we expect the courts to know the FCA if we as the police don't know it?" The other eight DFOs felt that the courts have improved and we should level the blame at the detectives who fail to bring it to the court's attention that it must declare a person unfit.

All six prosecutors felt confident that the courts are doing enough to restrict at-risk individuals from possessing firearms. They felt that all cases of a violent nature and cases where firearms were used, were met with unfitness declaration after the magistrate had made an enquiry. They said it sometimes happens that the magistrate overlooks the section 103 enquiry, as one prosecutor said: "[t]he state prosecutor has a duty to request the court to make an order in terms of section 103 of the FCA if the magistrate forgets to do so". "Most magistrates do apply the provisions of section 103 but there seems to be inconsistency with the recording thereof." This was a statement made by a senior public prosecutor from the Pretoria North court. He said his office often receives several queries emanating from firearm officers who do not understand

endorsements on the SAPS 69 forms as well as forms which are not written at all whereas unfitness declaration was made by the court.

According to some prosecutors, while the law gives the court discretion to declare a person unfit in other instances not involving a firearm, they tended to use these provisions in most cases involving violence. Otherwise, the issue of unfitness is not considered, especially if not raised in court.

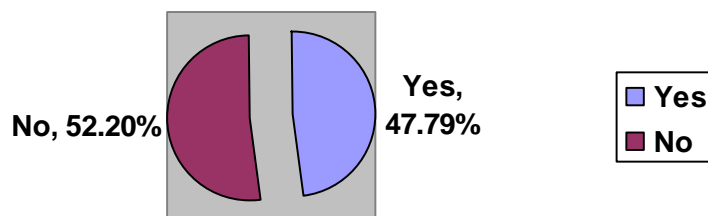
Regarding unfitness declarations, the chief magistrate of the Soshanguve court said: “It is the duty of a magistrate who hears the case to immediately after sentencing inform the accused of his unfitness declaration, and afford him an opportunity to provide the court with reasons as to why he or she should not be declared unfit”. He sums it up by saying: “All magistrates know about section 103 and applying it accordingly”. A magistrate from the Pretoria North court has a different view over this matter. He believes that while it is the duty of the magistrate to make a fitness or unfitness ruling, it remains the duty of the court prosecutor to endorse such a ruling on the docket, so as to make the police aware of the decision. He added that “[m]agistrates use charge sheets in court and not a case docket.” Another magistrate from the Soshanguve court shared the same sentiments with his colleague from the Pretoria North court, except that he believes it should be the duty of the clerk of the court to endorse and communicate such information to the police.

5.3.4.3 Analysis of background checks

The following table analyses new/renewal firearm respondents’ views of background check as a restricting tool for at-risk individuals.

Just over half of new/renewal firearm respondents were not interviewed for someone else’s firearm applications. More than 50% of them responded with a ‘no’ to the interview question.

Figure 5.3 Respondents exposed to interview



Source: South African Police Service: PTA North firearm applications register

According to figure 5.3 above, 47.79% of new/ renewal firearm respondents were interviewed for someone else's firearm application while 52.21% were not exposed to any firearm-related interview except their own.

Table 5.4 Background check

Heading		Figures	Percentage
Respondents exposed to interview	Yes	54	47.79
	No	59	52.21
Respondents interviewed for	Spouse	13	11.50
	Friend	29	25.66
	Neighbour	10	8.85
	Other (Pastor or colleague)	2	1.77
Respondents' opinion on the following:			
Background check on Applicants	Very good	49	43.36
	Good	52	46.02
	Unsure	5	4.42

	Bad	3	2.65
	Very Bad	4	3.54
Choice of references for background check	Very good	27	27.89
	Good	60	53.10
	Unsure	15	13.27
	Bad	5	7.08
	Very Bad	1	2.65
Relevancy of interviewee questions	Very good	33	29.20
	Good	69	61.06
	Unsure	8	7.08
	Bad	03	2.65
	Very Bad	0	0
Police way of conducting background checks	Very good	35	30.97
	Good	64	57.52
	Unsure	9	7.96
	Bad	5	4.42
	Very Bad	0	0
Interview with spouse	Very good	28	24.78
	Good	75	66.37
	Unsure	9	7.96
	Bad	01	0.88
	Very Bad	0	0

Source: South African Police Service: PTA North firearm applications register

According to table 5.3 above, 89.38% of respondents felt good about background checks. By implication, almost 90% of new/renewal firearm respondents are quite impressed with background checks. The remaining 10% comprise 6.19% that feel that background checks are a bad initiative, while 4.42% of respondents are unsure of what to make of this new initiative from the FCA.

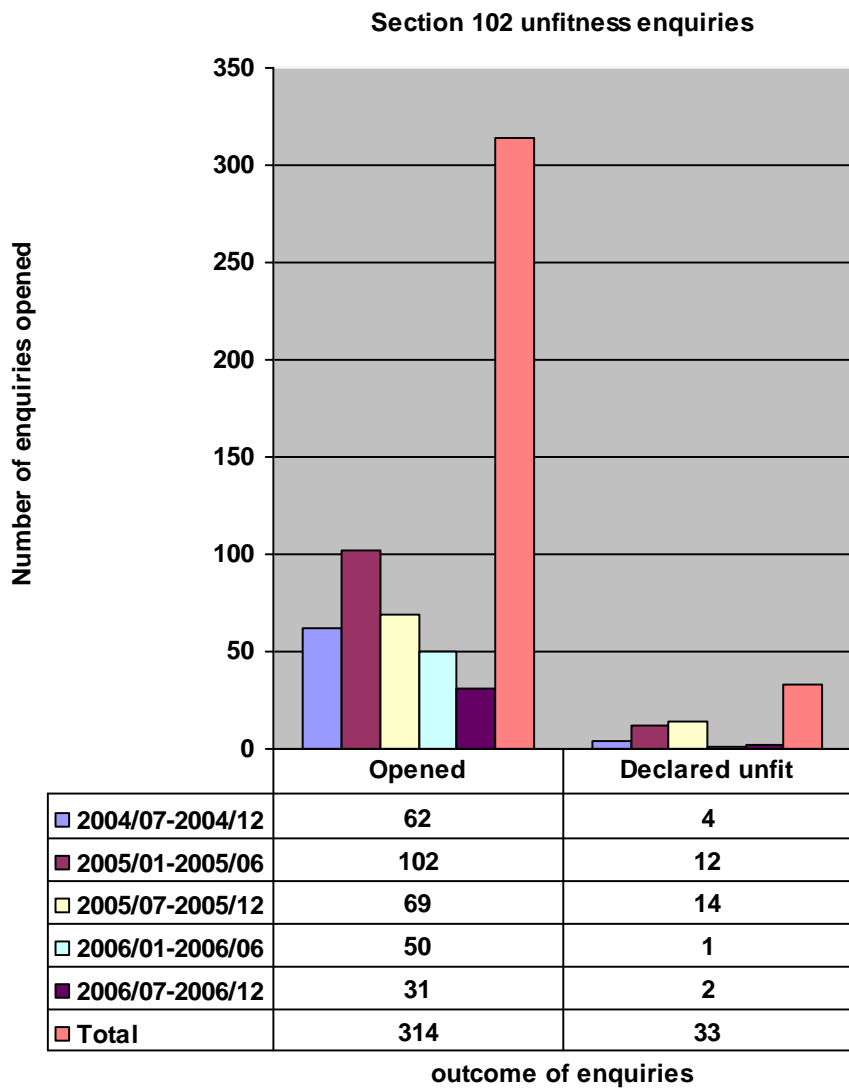
Almost 80.99% of the respondents feel good about the choice of people who are interviewed for firearm applications, including the spouse of the applicant, whilst 7.08% of the respondents are of the opinion that the wrong people are being interviewed. They raised concerns about neighbours being interviewed for their firearm licences while they did not want them to know that they had firearms. A concerned firearm owner reiterated that, “I strongly feel that wife, friends and neighbours chosen by the applicant can always say favourable things about a person. The Act should be developed to look deep in the person’s behaviour and character”. The majority of the respondents were impressed with the relevancy of the questions asked during interviews and the way police conduct the interviews. Both questions received a rating of 90.26% for relevancy of the questions and 88.49% for police professionalism.

The above response comprises 47.79% of respondents who were interviewed for their spouses, friends, neighbours, colleagues or pastor. The impression created from the above result is that respondents are satisfied with the introduction of background checks, choice of references and the manner in which the police conduct interviews for the purpose of restricting at-risk individuals from owning firearms.

5.3.4.4 Unfitness declaration in terms of the FCA

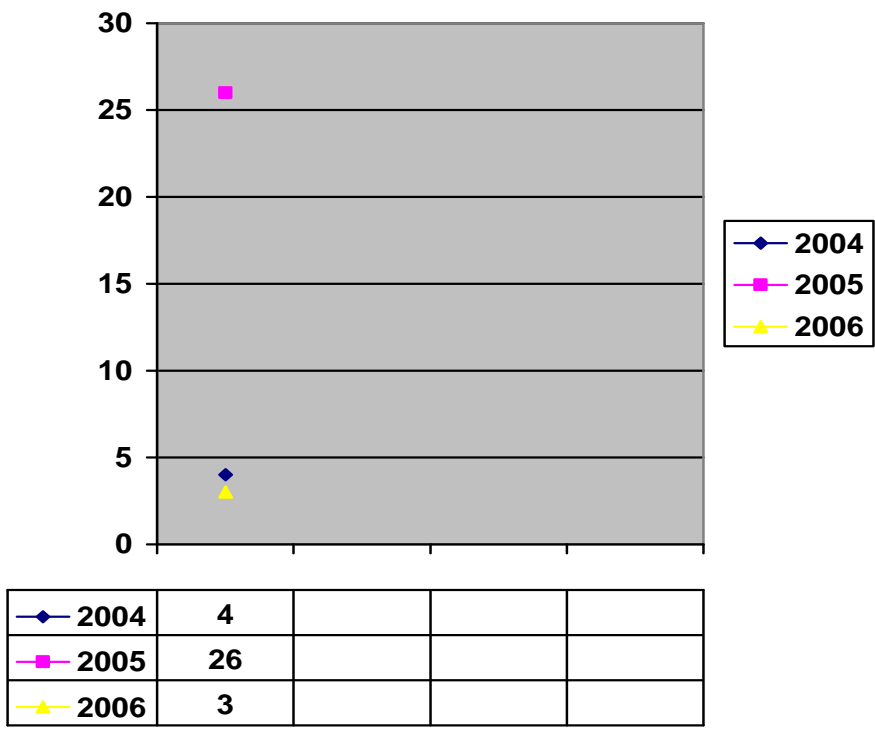
This research seeks to explore the way in which those deemed by legislation to be unfit to possess a firearm are excluded from legal firearm ownership. Research included 20 separate interviews with police officers (DFOs), prosecutors and magistrates in the PTA North FRC policing areas. Figure 5.6 below reflects records of section 102 and 103 enquiries, as defined in Chapter 1, handled during that period:

Figure 5.4 Section 102 enquiries for the period 2004-07-01 to 2006-12-31



Source: South African Police Service Firearm registration system

Figure 5.5 Section 103 unfitness declarations



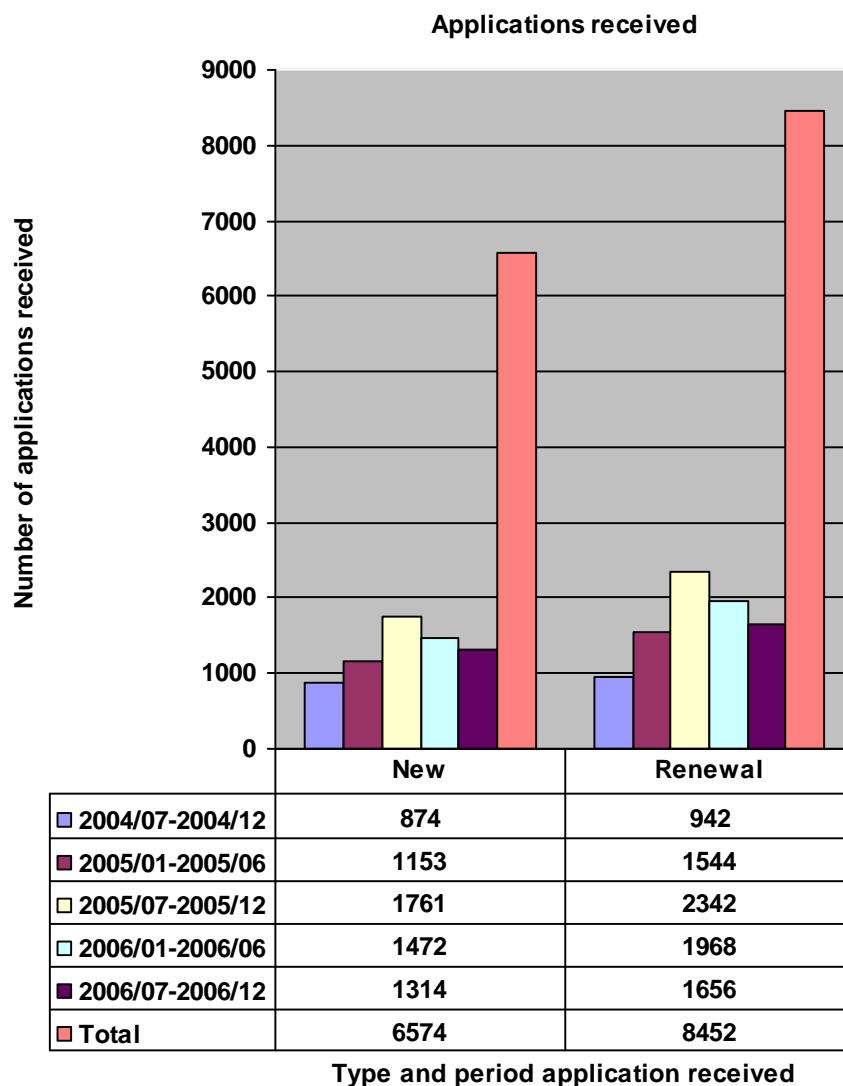
Source: South African Police Service PTA North unfitness enquiry register

A total of 314 section 102 enquiries were opened, and 10.51% thereof resulted in unfitness declaration. In the first part of 2005, 102 enquiries were registered as the highest recorded number of enquiries opened during the entire research period. Approximately 11.76% thereof resulted in unfitness declarations. A total of 33 section 103 unfitness enquiries were instituted by the court. From the above result, the deduction that can be made is that while few section 102 enquiries were opened, very few thereof got positive results for the purpose of restricting firearms from at-risk individuals. These defeats the object of unfitness declaration as a restricting tool and deterrent as discussed in Chapter 4 (4.5.1).

5.3.5 Analysis of firearms applications

The number of applications received in relation to new applications, renewal applications and applications refused, were analysed from the applications that were registered from Pretoria North FRC and is discussed below:

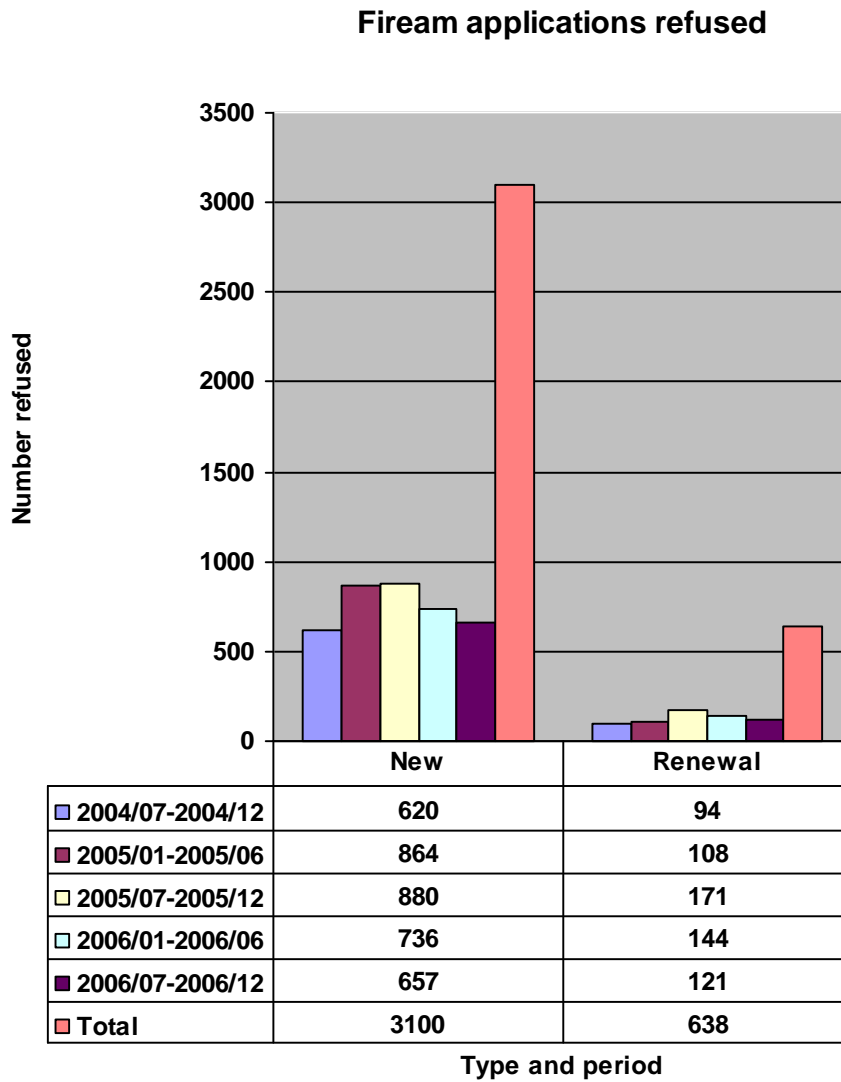
Figure 5.6 Firearm licence applications received for the period 2004-07-01 to 2006-12-31



Source: South African Police Service firearm registration system

Figure 5.4 indicates that the FRC is handling more renewal applications than new applications, with 8452 renewals recorded for the period under review, in relation to 6574 new applications in the same period. The second half of 2005, which was the actual first renewal year, tops the list with 2342 renewal applications. Only 942 renewal applications were registered in 2004, mostly from people who were going away in 2005 and those who were cautious about long queues. New applications were, on average, 1300. The highest was 1761 in the last half of 2005, and the lowest was 874 in the last half of 2004.

Figure 5.7 Firearm licence applications refused for the period 2004-07-01 to 2006-12-31



Source: South African Police Service Firearm registration system

Refusal figures in Figure 5.5 give the impression that the renewal process was more of an audit process. There were 638 refusals for renewal licences in comparison with 3100 new application refusals. The most refusals were in 2005, where a total of 1744 of the 2914 new applications were refused. In comparison, 279 of the 3886 received renewals that were refused in 2005, top the chart.

As recorded in the renewal applications (SAPS 517E), refusal reasons for renewal applications were based on sections 6, 13, 15, 17 and 17 of the FCA. Among common renewal refusal reasons are: applicants whose applications for competency certificates were refused; applicants who applied to renew fully automatic handguns and semi-automatic shotguns and rifles for self-defence. Section 13 of the FCA also prohibits the applicants from having more than one firearm for self-defence; The greatest number of refusals were in the category of occasional sports-shooting and hunting, who applied for more than four firearms, who applied for more than one handgun for the purpose of this category, and those who applied for semi-automatic rifles and shotgun licences;. dedicated hunters who do not belong to accredited associations; and those who applied for fully automatic firearms, are refused their licences. Refusal in this category is minimal, because of the number of firearms that applicants in this category possess, and strict rules of their associations. Private collectors are also supposed to belong to an accredited collectors' association that approves the firearms they are renewing to be collectable items. Failure to subscribe to similar associations leads to refusals.

New firearm applications are the ones mostly refused. According to deciding officers at the CFCR, new applications are refused based on the following reasons: (a) Safety of the firearm due to either of the following circumstances: the absence or incorrect installation of firearm safe, insecure residence in terms of walls or fences, absence of strong locks on entry door to the residence, absence of security measures such as burglar proofing and alarms; (b) Lack of motivation such as failure to provide supplementary documentation to substantiate a need, failure to submit a letter from employer to confirm that the applicant indeed works awkward hours that puts his/her life in danger, failure to provide documentary proof regarding ownership of property that the applicant wishes to protect, failure to provide documentary proof of the applicant's participation in the field that he/she applied, e.g. sport, hunting, collection; (c) People who may legally not possess a firearm due to their previous conviction in a court of law, prior unfitness declaration, not in possession of the relevant competency certificate, being under the age of 21 years, exceeding the maximum limit of firearms that may be possessed per category, e.g. more than one handgun or shotgun for self-defence, providing false information such as a fictitious

address or failure to disclose previous convictions.

5.3.6 Identified inhibiting factors towards effective implementation of the FCA

Multiple reasons were given as inhibiting factors by the DFOs responsible for firearm administration in the Pretoria North FRC. These factors are, according to sixteen DFOs, lack of resources, e.g. vehicles, computers and scanners. Other reasons that are randomly mentioned among the DFOs include neighbours who refuse to be interviewed after their names were given as references; references giving wrong information about the firearm applicant; references refusing to give their identity numbers to the DFOs over the phone (one telephone interview allowed); lack of understanding and co-operation between firearm owners, police, dealers and court prosecutors; lack of proper liaison between the firearm Appeal Board and the firearm deciding panel chairpersons; court officials failing to endorse correct identity numbers of people convicted of serious offences that warrant unfitness declaration; FCA not making enough provision to enable the police to obtain records of mentally unstable people. They argue that “[w]ithout such records it becomes difficult for the deciding chairperson to stand his ground when refusing a licence”. Gauteng North region Superintendent raised a concern that “neighbours, families and friends are not open and they hide negative information about the applicants”.

Prosecutors in general did not have inhibiting factors that they could raise as problems. One of the six expressed a wish to have increased co-operation between the SAPS and the courts, to ensure that the FCA is effectively enforced.

5.3.7 Interviewees’ inputs on maximising the impact of the FCA

Eleven of the 20 DFOs felt that the Act, with its amendments, was sufficiently restricting at-risk individuals from possessing firearms. The remaining nine DFOs were optimistic that some changes need to be brought to the Act. They felt that continual campaigns will add value to the knowledge level that seems to be lacking; they believe the FCA’s renewal process is too lenient and allows too many firearms in circulation; they also felt that the FCA must compel the applicant to disclose and submit their medical reports, if requested by the DFO for examination

in cases of mental illness or stressors; other police officials to be trained in the Act; and, mandatory communication between the Appeal Board and the deciding officers, before an appeal is granted.

DFOs were even more critical when they suggested that Parliament needs to re-look into the issue of pellet guns that are daily causing serious harm to the lives of innocent people. They felt that pellet guns need to somehow be controlled, even if they have been deregulated. They also felt that shotguns should be excluded as self-defence firearms from section 13, because of the harmful effects they have when used in places other than farming areas. One commander from Gauteng Province remarked: “[r]ather categorise a shotgun under restricted self-defence as contained in section 14, which is dealt with in a stricter way than section 13 self-defence”. On background checks, the DFOs suggested that they should be intensified, and conducted without the knowledge of the applicant, with references that police choose at random. Again, they felt that it should be a criminal offence for a reference to knowingly provide false information about the applicant.

Prosecutors from both courts serving Pretoria North FRC were satisfied with the current FCA and its amendments. No inputs were given on what can be improved.

5.4 Conclusion

In this chapter, data collected from 113 new/renewal firearm licence applicants in the Pretoria North FRC, as well as interviews with different role players in the Pretoria North policing area that are directly or indirectly involved in restricting firearms from entering or remaining in the hands of at-risk individuals, and information from the application analysis and Enhanced Firearm Control System, were summarised in this chapter.

The questionnaire schedule asked questions about the firearm applicant’s type of firearm owned, the period of ownership and the reason for owning such a firearm. They were further asked their opinion on: the introduction of background checks and choices of interviewee; knowledge of the FCA and its enforcement by the police and the courts; and, whether background checks,

fingerprints and five-year renewal intervals restrict at-risk individuals from obtaining firearm licences. The responses were described in a systematic and quantitative manner. The information gathered from interviews was analysed using a frequency distribution analysis. Several identified themes that play a considerable role in firearms reaching the hands of at-risk individuals, were discussed. Clear guidelines and proper communication should be developed among all role players to address problems identified in the above themes. The research findings will be interpreted in Chapter 6.

CHAPTER 6

INTEPRETATION OF THE RESEARCH FINDINGS

6.1 Introduction

This chapter interprets the data collected through questionnaires from 113 legal firearm owners and interviews with Designated Firearm Officers (DFO) and court officials who administer firearms in the Pretoria North Firearm Registration Centre (FRC) policing area. Interviews also included DFOs who are actively involved in the administration of firearms in the Pretoria North

FRC, Gauteng Province and on national level. Data collected from firearm applications, registers and the firearm registration system, as well as means to identify at-risk individuals, will also be interpreted. According to Mouton (2001:124), interpretation of data shows how the results of the analysis and conclusions reached relate to the literature and theory relevant to this research.

Data will be interpreted with the objective of identifying various international policing models of identifying at-risk individuals, and restricting firearms from them, and evaluating global best practices. Evaluation of the impact that the FCA is having in restricting firearms from the hands of at-risk individuals in the Pretoria North FRC policing area, will conclude the rest of the chapter.

6.2 Basis of Legislation regulating firearms in South Africa

South Africa's firearm proliferation problems was an end result of the pick, pay and get a firearm licence administration process followed in the previous firearms act. It was a 'no question asked' system where any adult without criminal record who wanted a firearm could just choose a firearm from a firearm dealer or private firearm owner, put down a deposit, fill in firearm application form with the police and wait for the licence while settling the balance. The system resulted in mass issuing of licences as indicated in table 2.1. That prompted the South African government to draft the new Firearms Act so that firearm licensing could be better regulated (see paragraphs 3.5.1 and 5.3.5 above). Empirical research indicates that the FCA has already been amended twice and is being administered under the transitional provision.

Throughout the world firearm Acts were amended to align them with treaties and, most importantly, to address practical problems experienced by those countries. Internationally, countries like the USA, Canada and Australia amended their ineffective firearm Acts and experienced a huge decrease in crime and suicide rates (see paragraph 3.2). In South Africa the Arms and Ammunition Act 75 of 1969 was replaced by the FCA 60 of 2000. Empirical research indicates that the FCA was amended in 2003 to cater for apprenticeship to gunsmiths, to empower the Minister to prescribe measures of notifying the public on premises declared Firearm Free Zones, and to provide for continued validity of gunsmith certificates in the

transitional provisions. These amendments came prior to the FCA implementation date of 1 July 2004, and as such did not have any recorded direct influence on firearm administration.

The second amendment was proclaimed in August 2007 to provide for muzzle loading firearms, control over devices such as silencers, substitution of responsible person for cancellation of accreditation, renewal of competency certificates, provide definition of “professional hunter”, to extend the validity period of licences and permits, to provide for the holding of section 102 in the absence of the respondent, and to provide compliance with the provision of the National Heritage Act, 1999 in destroying firearms. The two amendments to the South African Firearms Act were according to empirical research meant to enhance service delivery, address proliferation of firearms in the Pretoria North FRC area, create control where none existed, and to clarify some sections which were considered to be vague. Neither of the two amendments seems to have directly prejudiced firearm owners in the research area, and the law enforcing agency in enforcing the FCA.

The transitional provision refers to the process followed in firearms administration to move from the Arms and Ammunition Act 75 of 1969 to the FCA 60 of 2000. Feedback from empirical research indicates that the DFOs were appointed and trained in terms of the FCA; implementation date was set for 1 July 2004 to allow some time to raise awareness with the public and other stake holders; and, allow the renewal process under the transitional provision between 2005 and 2009. Feedback from empirical research indicates that the amendments did not have any negative effect on firearms administration. They instead bolstered and made the FCA more effective, with additional control mechanisms extended to muzzle loaders and silencers.

Empirical research indicates that towards the end of 2001 FRCs were established and equipped, and early in 2002 DFOs were appointed and trained as part of the FCA implementation strategy (see also paragraph 3.5.7 above). It also emerged in the research that in 2003 Operation Sethunya was launched to deal with illegal firearms and enforce compliance by legal firearm owners. The operation netted many illegal firearms, addressed improperly registered firearms, non-

compliances by legal firearm owners and dealers, and updated the firearms database of CFCR.

The reason for the establishment of the FCA, as indicated in paragraph 1.1, was a way of implementing firmer measures to fight illegal firearms and effectively control licensed arms in South Africa. The FCA was amended in 2003 and 2007 to close loopholes in the FCA and to make it even more effective. Those opposed to the FCA raised alarms, labelling the amendments as a sign of early cracks in the new act and its first amendment that were not properly researched. Empirical research has, however, indicated that the amendments were meant to make the FCA more effective in restricting firearms from at-risk individuals.

6.2.1 Firearm restriction and administration in South Africa

The FCA that currently regulates firearms in South Africa was necessitated by, among others, the out-of-date and much-modified 1969 Arms and Ammunition Act (see paragraph 3.5.5). Administrative aspects of the FCA are contained in the Firearm Strategy, as discussed in paragraphs 3.5.5.1 and 3.5.7. In this section interpretation will be on the type of firearms possessed, the police's and courts' role in restricting firearms from at-risk people, and public education initiatives in the FCA.

Chetty indicated in paragraph 2.2.6 that handguns are the commonest type of licensed firearm in South Africa, and 57.4% of all violent crimes were committed with handguns in 1998. From the empirical research it is evident that handguns are the most commonly possessed firearms in the Pretoria North FRC policing area. It is unfortunately also a firearm of choice in the commission of most violent crimes, due to, among others, its concealability.

According to Spitzer, in paragraph 3.5.1, the gun debate revolves around the relationship between the citizens and the state's power to regulate it and maintain public order. Paragraph 2.2.6 reiterates the positive duty of the police to protect the community, as reflected in the case *Minister of Safety and Security v Van Duivenboden* [2002] 3 All SA 741 (SCA). Stevens also emphasised legal control, in paragraph 2.2.2, where he indicated that the police have a duty to remove objects that can be used to commit crime, like drugs, firearms, etc.

Feedback from empirical research indicates that section 102 enquiries are not properly dealt with in the Pretoria North FRC. Even though the presiding officer can, in terms of section 102, only make a ruling of “fit” or “unfit”, on closer scrutiny of those files, poor investigation and flawed processes such as failure by the presiding officer to keep proper minutes of the proceeding, taking a decision without hearing the other side of the story, taking long before instituting the enquiry - which results in the disappearance of witnesses or failure to afford the respondent his/her basic enquiry rights - were found to be at the centre of such poor performance. Section 102 investigations take long before they are finalised, which sometimes results in the disappearance of the witnesses. Poorly trained presiding officers also make many mistakes in front of lawyers, and rule in their favour just to avoid long legal processes, or their cases are thrown out on appeal.

A total of 314 Section 102 enquiries were opened between July 2004 and December 2006, of which 33 resulted in unfitness declaration. Those who were declared fit were as a result of either ‘no prima facie’ case against the respondent; witnesses could not be traced; or, Appeal Board withholding appeals because of flawed processes and procedures. In the same research period, the courts instituted 21 section 103 unfitness declarations.

It also emerged from the research that the DFOs were thrown in the deep end without proper training in section 102 enquiries. The removal of section 11 (current section 102) from the curriculum of police training at the Pretoria West police college and management courses in 1994, contributed to the lack of knowledge in that field. Only one two-day informal session was held with the DFOs after the implementation of the FCA, which is not sufficient to enable the DFOs to exclude at-risk people from firearm ownership. With regard to section 103 unfitness enquiries, there was very little improvement from the ISS survey results indicated in paragraph 2.3. It seems as if the police are still not doing follow-ups on people declared unfit by the courts, to record unfitness declaration on the firearms system. There seems to be no proper communication between the police and the courts.

Further, it is internationally proven that proper communication is effective in addressing crime levels in society. Wolfe and Jaffe, as indicated in paragraph 4.3, emphasised the fact that public education campaigns to increase awareness can assist in reducing violent behaviour within the community. Positive media coverage, in the form of television, movies, newspapers or magazines, contributes immensely in the modification of criminal and non-criminal actions (see paragraph 4.3.5).

Feedback from empirical research indicates that almost 80% of the public have basic knowledge of the FCA. Such knowledge is attributed to the police awareness campaigns started in 2004 as part of Pillar 4 of the firearm strategy, in preparation for amnesty 2005 and training by the firearm training providers when firearm owners undergo training for a proficiency certificate. It also emerged that the general public in urban areas have more knowledge about the FCA than those in the rural areas, except for those who own firearms. Indications are that the DFOs embarked on campaigns such as TV and radio broadcasts, newspaper articles, awareness campaigns and road shows. Most of the above communication strategies are believed to be more effective in the urban areas.

Firearm administration in the previous Act, as indicated in paragraph 6.2 above, seems to have led to a huge circulation of handguns, and eventually usage thereof in crime. It is also evident that both the police and the courts are generally not effective in enforcing the FCA. Feedback received from Chapter 5 indicates that the police do not conduct proper interviews, and their network system is not yet interlinked to facilitate information sharing. The courts also seem to be reluctant to enforce the provision of section 103 regarding unfitness declaration of a suspect found guilty on Schedule 2 offences. Poor handling of section 11 enquiries (now section 102) are thought to have led to numerous irresponsible shootings which could have been avoided (see Figure 5.4).

The FCA makes provision for the centralisation of firearm administration duties, with the establishment of the FRC. Since the establishment of the FRC, the approval rate of new firearms has decreased by 45%, as indicated in paragraph 5.3.5, and those who transgressed the FCA were

declared unfit, as reflected in Figure 5.4. From the above it appears as if South Africa is steadily improving in terms of firearm administration, even though the unfitness enquiries still need attention.

6.3 Identification of at-risk individuals

At-risk individuals are people whose possession of firearms pose a life-threatening risk to themselves or other people or property, due to their state of mind, character or substance abuse, or are incompetent due to their previous criminal record, and any other contravention as indicated in paragraph 1.7.2.3 above. This section interprets empirical results about at-risk individuals, background checks and firearm licence administration.

Designated Firearm Officers and prosecutors in the Pretoria North FRC area described at-risk individuals to include: mentally ill persons; aggressive and violent persons; persons who have been declared unfit in terms of Section 102/3 of the FCA; people convicted in court for violent offences and domestic violence related transgressions; people dependent on drugs; people with protection orders against them; people who failed to safeguard their firearms; physically challenged people whose situation disables them from properly handling firearms; and, people with stress and depression. Their description was found to be in line with the definition in the FCA, which is an indication that they understand their role in restricting at-risk individuals in the Pretoria North FRC area.

In this research focus was also laid on the importance of background checks to firearm applicants, their choice of background check references, questions asked and police's professionalism in conducting interviews, as a way of identifying at-risk individuals. The empirical research results indicate that firearm owners in general believe that background checks are a good tool to restrict firearms from at-risk individuals and that police are conducting background checks well (see paragraph 5.2.4).

For the period 2004 July to 2006 December, 6574 new firearm applications and 8452 renewal applications were processed by the Pretoria North FRC. Almost half of the new applications

received were refused, while 7.55% of the renewal firearm applications were refused. New applications were refused mostly because they lacked sufficient motivation from the applicant, the applicant had a criminal record, the firearm was not suitable for the purpose applied for, and the applicant had a character which is not consistent with the provisions of the FCA (see paragraph 1.7.2.3). Common refusal reasons for renewal licences are: criminal record, refusal of the competency certificate, or transgression of the FCA by the applicants. All the refusals as indicated above are as a result of an intensified screening process on the firearm applicant, built into the FCA.

Another category of at-risk individuals is those with criminal records. Section 6(2) (f-m) prohibits the issuing of a competency certificate, which is a prerequisite for a firearm licence, to people with criminal records. People declared unfit, as discussed in paragraph 6.2.1 above, are also at-risk individuals.

Feedback from empirical research indicates that both the DFOs and prosecutors in the Pretoria North FRC policing area understood who at-risk individuals are, in relation to the FCA. Clear understanding of at-risk individuals by the above law enforcers resulted in the decrease of the number of firearms that enters hands of at risk individuals. For the period 2004 to 2006 December, the refusal rate of firearm licences based on at-riskness of the applicant has improved. Aspects such as criminal record, violent conduct and transgression of the FCA by the applicant, led to the DFO refusing firearm licences.

On the other hand, with such clear understanding of at-risk individuals, few at-risk individuals were declared unfit. Prior to the FCA, the ISS reported a survey where 787 firearm-related dockets were perused and only seven unfitness enquiries instituted, with only one unfitness by police and no section 103 unfitness on three 'guilty' verdict cases. After the implementation of the FCA, 314 section 102 enquiries were opened in the Pretoria North FRC, where 33 resulted in unfitness declaration and 21 Section 103.

6.4 Effectiveness of the FCA in restricting firearms from at-risk individuals

In this section, focus will be on the FCA itself. The researcher will endeavour to establish, through feedback from respondents, if the FCA with its amendments makes enough provision to restrict at-risk individuals from owning firearms.

Wellford, Pepper and Petrie, in paragraph 2.5.1, propose that the authorities need to ask themselves questions such as: Should regulations restrict who may possess a firearm? Should it differ from types of firearm? Should purchase of firearms be delayed? And if so, for how long? Should restrictions be placed on number or types of firearms that can be purchased? Should safety locks be required?

Feedback from empirical research data in this study indicates that the FCA with its amendments does restrict firearms from hands of at-risk individuals. Approximately 70% of the firearm owners believe that the FCA is on the spot in addressing firearms problems. The remaining 30% are of the opinion that the FCA still lacking in some aspects, such as silence regarding the firearms of people with stress or depression. It also does not compel medical practitioners to provide medical reports on stressed and psychiatric patients. The implication of the latter data is that a number of at-risk individuals are likely to obtain firearm licences if those grey areas are not closed.

According to the figures indicated in Table 2.1, too many firearm licences were issued under the Arms and Ammunition Act. The number of firearms and individuals who own them have dropped nationally, but increased in Gauteng, with Pretoria leading by a 8.49% increase. It did not come as a surprise when the minister of Safety and Security, Charles Nqakula, questioned the effectiveness of the police in enforcing the FCA when pistols, revolvers and shotguns registered on civilians' names were still found at crime scenes. The Minister reiterated a need for optimal usage of the FCA to ensure that firearms are removed from at-risk people (see paragraph 2.5.1).

Chetty in paragraph 2.1 indicated that some of the problems that led to an increased influx of firearms were the easy accessibility of firearm licences in terms of the Arms and Ammunition Act 75 of 1969. According to the head of the Central Firearm Control Register (CFCR), the

Firearm Registration Centres (FRC) were established in the Western Cape and Gauteng Province and Designated Firearm Officers (DFO) appointed in 2001, and the Firearms Control Act 60 of 2000 was implemented on 1 July 2004. By implication it means that firearm licences were issued in terms of the Arms and Ammunition Act until 30 June 2004. This may be regarded as the possible cause of the influx in Gauteng due to centralisation of the firearms service and lack of an applicant screening mechanism in that Act.

Feedback from empirical research indicates that the police are not doing enough to restrict at-risk individuals from possessing firearms. They blame the lack of logistical resources available to the DFOs, which lead to outputs of inferior quality. Also, some DFOs conduct interviews telephonically because they do not have the means to reach the applicants, police systems are not interlinked to track down applicants' pending criminal activities such as recent domestic violence incidents, and failure by other police departments, e.g. the detectives, to co-operate in dealing with section 103 unfitness cases. Some detectives are further failing the system with poor investigations which lead to acquittal of suspects who could have been declared unfit to possess firearms, after being found guilty in court.

Schoenteich, in paragraph 2.5.1, also believes that the Criminal Justice System is restrained by factors such lack of resources, unfairness, lack of experience and excessive workload. He is of the opinion that understaffed and untrained police members and a restricted supply of resources, such as vehicles and equipments, restrain a well-functioning justice system. He believes that intelligent resource allocation and improvement of trained personnel will have a positive influence on the justice system.

Regarding the court, interpretation of empirical data indicates that effectiveness is still lacking. The dominant reason behind the ineffectiveness was the courts' failure to apply the provision of section 103 when sentencing the suspect. They leave unfitness declaration to the police, which add further to the police backlog. Court officials believe that the courts are doing enough to enforce the provision of the FCA.

Empirical research indicates that the number of firearms issued has been drastically reduced after proper identification of at-risk individuals by the DFO, as discussed above. Results show further that the FCA may be more restrictive if the SAPS management can avail resources such as additional personnel and vehicles, to enable the DFO to effectively implement the act. Good practices incorporated into the FCA to make it effective, such as background checks and secure storage facilities, all need resources like vehicles to reach the firearm applicants and their references.

6.5 Conclusion

In this chapter, research findings, as presented in Chapter 5, were interpreted based on three broad headings: Legislation regulating firearms; at-risk individual identification; and, effectiveness of the FCA in restricting at-risk individuals from possessing firearms. Legislative provisions regulating firearms, from the international world, the African continent and South Africa, were analysed and interpreted against the background of the empirical research conducted in this study and elsewhere in the world. People regarded as at-risk individuals for possessing firearms were also interpreted from the literature review and research findings. In conclusion, the effectiveness of the FCA in restricting firearms from at-risk individuals was also interpreted. Empirical research indicates that the FCA does make sufficient provision for restriction of at-risk individuals from possessing firearms. The implementation thereof needs to be improved both from the police's and the courts' side to make the FCA more effective.

CHAPTER 7

SUMMARY, CONCLUSIONS AND RECOMMENDATIONS

7.1 Introduction

This chapter provides a summary of the dissertation from Chapter 1 to Chapter 6, where-after the interpretations made in Chapter 6 are examined and conclusions drawn. Subsequent recommendations are made, based on the findings, and a secondary prevention model to address obstacles impeding the effective restriction of firearms from at-risk people, is presented. It is clear that if the SAPS management, particularly the Central Firearm Control Register (CFCR) commit themselves to the recommendations made in this chapter, there may be a significant improvement in the implementation of the FCA and effective control over legal firearms. Subsequently, legal firearms could be restricted to responsible individuals.

7.2 Summary

The first chapter of this dissertation opened with an introduction to the rationale for the research that was undertaken, namely, to evaluate the effectiveness of the Firearms Control Act (FCA) in restricting firearms from at-risk individuals. Furthermore, the problem statement was provided, whereafter the purpose and importance of this research were explained. The value of this research and its results were also discussed. The goals and objectives followed, which provided the 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 role played by

the FCA in restricting firearms to at-risk individuals in the jurisdiction of the Pretoria North FRC policing area, response to and interpretation of the questionnaire concerning firearm restriction, distributed to firearm owners , and to explore and describe the focus group interviews with Designated Firearm Officers (DFOs).

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

- The level of representivity of the firearm owners through compiling a demographic sketch of the characteristics of the firearm owners selected, regarding gender, race, age group, type of firearms owned, duration of ownership, reasons for ownership and geographic area;
- The exposure to and attitude towards the FCA;
- The implementation and enforcement of the FCA by the police and the courts.

Furthermore, the delimitation of the study addresses how the study was narrowed in scope. Key theoretical concepts central to this study were defined, to provide a common understanding of their meaning in the field. Geographical and time limitations followed for discussion, whereafter problems encountered during the study were acknowledged. The research methodology then followed, which explained the exact steps that were 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, and ethical considerations.

An overview of the extent of firearm restriction to at-risk individuals follows in the second chapter. At-risk individuals are described from a global perspective through the literature review and from a South African perspective, in terms of the FCA. Records of firearms held by individuals and firearms lost/stolen from individuals were provided and analysed. The following broader framework of at-risk individuals forms the foundation for this chapter: people who express the intention to kill themselves or other people; people who are mentally unstable; people who are dependent on intoxicating or narcotic substances; people convicted of offences under the FCA or previous firearms Act; people convicted of an offence in terms of the Domestic Violence Act, 1998; and, people declared unfit to possess a firearm. Negligence is discussed later in the chapter as the main source of supply to the illegal pool of firearms. Government's role in

enacting and enforcing laws that will effectively restrict firearms from at-risk individuals closes the chapter.

A holistic literature review of existing publications on the specific problems, that were researched to present the knowledge base upon which the study is built, follows thereafter. The viewpoints of a variety of authors that relate specifically to the key concepts, namely, the impact of strict firearm control in crime prevention, were discussed, to place the current study within the conceptual and theoretical perspective, as well as to obtain a thorough understanding of the topic. In support of the literature, an overview of the emergent themes was also discussed.

Furthermore, a summary of international arms control, followed by the development of firearms in South Africa, closes Chapter 3, with an overview of legislative provision that relates to the FCA, such as the Constitution of South Africa, the White Paper on Safety and Security, the South African Police Act 68 of 1995, the 1996 National Crime Prevention Strategy, the Policing Priorities and Objectives, and the SAPS Firearm Strategy.

A prevention strategy for at-risk firearm licence holders under the broader framework of primary prevention, secondary prevention and tertiary prevention, is discussed in the fourth chapter.

Under primary prevention, aspects such as primary intervention at schools, gun free zones as well as media programmes, were discussed as initiatives to prevent at-riskness before it emerges, or at the earliest stage. Next to be discussed is secondary crime prevention, which is aimed at early identification of the problem, and intervention. The sixteen situational prevention techniques under situational crime prevention provide theoretical techniques on how to reduce crime. Also under situational crime prevention is a summary of Cook and Ludwig's firearm regulations policy which suggests an intervention strategy to limit gun availability. Social crime prevention, with special focus on support structures on at-risk youth, family programmes and community involvement, as well as rational choice theory, concludes secondary crime prevention. The last level of prevention discussed is tertiary prevention, which deals mainly with the redress of wrongdoers in relation to legal firearm owners. Under this category, government, as the custodian of the FCA's role in restricting firearms to at-risk individuals, is discussed. Differences and interactions between the three levels conclude the chapter, with an adapted

model for at-risk gun licence holders, based on the Public Health Model.

Analysis of data is 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 subcategories that emerged in the data. The data collected is described and illustrated by means of interviews with commanders from the Central Firearms Control Register (CFCR), the Provincial Firearm and Liquor Control office, Designated Firearm Officers (DFO) from the Pretoria North FRC, and court officials from courts in the jurisdiction of the Pretoria North FRC. Questions relevant to firearm administration were asked in the interviews. Quantitative measures were integrated with qualitative measures, and the research design and approaches were triangulated to ensure the richness of the data.

Themes and subcategories were discussed with independent researchers to support triangulation. An explanation of each theme is presented, which was enriched by direct verbatim reflections of the responses. A critical reflection of the themes and their sub-categories round off each theme. This chapter concludes with the results of the questionnaires, which are presented as tables and figures, to indicate the respondents' reactions towards the effectiveness of the FCA in restricting firearms from at-risk individuals, and, in addition, provide the reader with background information on the respondents for contextualisation purposes.

The results of the analysis done in Chapter 5 are interpreted and measured against legislative provisions, and secondary prevention model is presented and discussed in Chapters 3 and 4 and in Chapter 6. The structure of this chapter is based on the global, continental and South African development of firearms legislation, and best practices as identified in Chapter 4. Broader discussion points of this chapter are: people's opinions and experiences of the FCA; means of identifying at-risk individuals; and, effectiveness of the FCA in restricting at-risk individuals. The above discussion points are supported by the inclusion of other authors' models, as presented in Chapter 4, to emphasise the importance of restricting firearms from the hands of at-risk individuals. In addition, each step of those models is then complemented by literature

sources, as presented in Chapter 4, as well as by legislature, policies and directives, as presented in Chapter 3. This chapter is concluded by interviews with commanders from National Office, Provincial Office and Pretoria North FRC, as well as the DFOs at ground level. Questionnaires from firearm owners have also been integrated to form a holistic interpretation of the findings. Lastly, the impact of each of the above themes is explained to round off the holistic findings of the interpretations.

7.3 Recommendations

The research conducted indicates that after nearly three years of implementation, the FCA has various shortcomings. These shortcomings have created obstacles which have an impeding influence on the effectiveness of the FCA, which in turn have had a negative impact on effective restriction of firearms from at-risk individuals. As a result, there are a variety of concerns that need the attention of SAPS management, particularly the DFOs. The situational prevention technique of secondary prevention was used as the framework for this study. Recommendations are therefore made based on the four strategic phases of situational crime prevention, as adapted from the Public Health Model (see paragraph 4.4.1), to address the obstacles impeding the effective restriction of firearms from at-risk individuals. Key challenges of these four strategic phases involve changing people's behaviour, working procedures and service delivery. Recommendations will be made indicating areas that need attention.

7.3.1 Increase the effort in implementing the Act

International and other African countries amended their ineffective firearm legislation, and have experienced a huge decrease in violent crime and suicide rates. To cite a few examples, the British Dunblane massacre, an attempt on the life of New York City Mayor, William Gaynor, the shooting of Senator Robert Kennedy and the Reverent Martin Luther King, Jr. in the USA led to the introduction of background checks, criminal record verification, checks against domestic violence convictions and assault cases, psychiatric disorder, storage facilities and good character references for firearm applicants (see paragraph 3.2).

On the African continent, countries such as Botswana, Lesotho, Malawi and Zambia have also

introduced, as a requirement, the screening of firearm applicants for history of mental illness and criminal record, and the age limit was ranged between 18 and 21 years, introduced Firearm licence renewal, restrictions of firearm licences to alcoholics, mentally disturbed people, people with criminal records for offences involving violence, safe storage of firearm and ammunition (see paragraph 3.3.1).

South Africa followed the good practice from both international and SADC countries, and the approval rate of new firearm licences decreased by more than 45% (see paragraph 5.3.5). From this it appears as though South Africa is technically on the right track, in terms of its legislation, to introduce background checks to identify at-risk applications of firearms. The challenge lies now in the practical implementation of these legislative measures. From the research results it appears as though the application of the FCA is flawed and should be improved. This will bring South Africa in line with international best practice, not only in terms of the legislative provisions, but also in the practical application thereof.

From the above it is evident that the availability, suitability, value and ease with which crime tools can be obtained leads to the successful commitment of crime. Increasing the effort is the technique which involves processes in crime control efforts that endeavour to make it hard for the would-be offender or people at-risk of offending from accessing crime tools (See paragraph 4.4.1.3). Regarding armaments, all these need to start with the proper definition and regulation of firearms. Definition of at-risk people should be expanded to without discrimination includes physically challenged individuals whose deformity disables them from effectively handling firearms, e.g. blind people who cannot see a firearm or their attackers, people who cannot use their deformed hands, and people with uncontrollable illnesses such as epilepsy, to mention but a few.

Effective control measures need to be built into the FCA to properly control deregulated arms such as air guns - and toy guns, for that matter. All deregulated airguns and toy guns of a specific size (resembling a real firearm) should be possessed with a permit issued by a local DFO after proper identification of the owner or purchaser. This will deter both criminal and negligent usage

that often results in fatal injuries (see paragraph 4.4.1.3). Harsher sanctions should also be imposed on people committing offences with air guns and toy guns, to deter general misuse. To reinforce prohibition on underage firearm possession and usage, sanctions on firearm owners contributing to those scenarios should be stepped up. A shotgun should also be excluded from the general self-defence firearm category (section 13). It should be limited to the extra-ordinary self defence category (section 14). Currently even people staying in flats and town houses in built-up areas where shotguns cannot be safely used, have shotguns for self-defence purposes.

Controlling facilitators, e.g. declaring some premises like pubs Gun Free Zones (GFZ) and requesting clients to surrender firearms when entering those places because of a fight risk, can also deter shooting incidents and negligent losses. Background checks on prospective applicants, and keeping firearms unloaded and in safe storage facilities, are also part of an increasing effort to make things difficult for offenders. With regard to the FCA, the Act itself needs to be tightened, and the DFO and courts enforce it effectively, to ensure the effective restriction of firearms from at-risk individuals.

7.3.1.1 Increased effort in obtaining firearm licence

The outcome of this research indicates that the FCA was amended twice, to strengthen its effectiveness. As a result, for the period July 2004 to December 2006 almost half of the 6574 new firearm applications received were refused, based on control mechanisms built into the FCA to increase the effort in obtaining a firearm licence. Among the refusal reasons were that the applicant did not provide sufficient reasons why he needed a firearm licence, and applicants with criminal records and/or violent character. Applicant character is determined during the background check with the applicant's spouse/ fiancé and neighbours.

The research indicates that the police are conducting interviews reasonably well, except for a few incidents of telephonic interviews, and the questions asked are reportedly good. An indication from the empirical research is that telephone interviews were not in the initial instruction document, but were later allowed in an effort to deal with the increasing backlog. It is recommended that the Registrar (CFCR) should be firm in administering firearms, so that at-risk

individuals could be sufficiently restricted from having firearms. Instead of compromising the intention of legislature, more members and paid reservists should be recruited as DFOs, to ensure that there is effective administration of firearms. DFOs should also be declared a scarce skill, to prevent a constant loss of trained and skilled personnel due to promotions and transfers elsewhere. That will help maintain continuity and retain the expertise.

7.3.1.2 Section 102/3 unfitness enquiries

According to empirical research, both the police and the courts are not doing enough to declare FCA transgressors and violent encounters unfit to possess firearms. The DFOs do not seem to be winning the battle as far as section 102/103 unfitness enquiries are concerned. For the period July 2004 to December 2006, 314 section 102 enquiries were opened of which 33 resulted in unfitness declaration. In the same period, only 21 sections 103 were instituted by the courts. A common reason given for such a low figure is the lack of training for officers responsible for section 102 enquiries. It is recommended that all violent - and domestic violence - cases be referred to the DFOs for unfitness enquiry screening before closure, as another way of generating section 102/3 enquiries.

The following is recommended as a way of increasing the effort in restricting at-risk individuals from possessing firearms. The SAPS management, particularly the Central Firearm Control Register (CFCR), need to step up background checks and ensure thoroughness, so that only fit and proper people are awarded licences. The DFOs need to do away with telephone interviews, unless as a last resort due to circumstances beyond their control. DFOs also need to double-check some of the references given by the applicants, to avoid making decisions based on one-sided information which may be wrong. The FCA should make it an offence for character references who deliberately give wrong information about the applicant.

Aspects such as section 102/103 unfitness enquiries must be made compulsory in all violent and firearm-related cases. The DFOs responsible for those enquiries must be thoroughly trained in the investigation as well as the enquiry process itself. All firearms in the SAPS 13 storeroom must also be subjected to thorough analysis for possible enquiry, and only be released with the

consent of the DFO.

There is also a need to have a standard form that is attached to all firearm-related and other possible section 103 dockets, wherein the investigating officer, in collaboration with the DFO, requests the court to enquire into the fitness of the person to possess a firearm, in case of a guilty verdict. The SAPS can also, through information system management, create a function on the computer system which disables detectives from closing firearm-related cases before confirming that the docket was analysed by the DFO for possible section 102 enquiries or section 103 process endorsements. Provision should also be made that binds the Appeal Board to consider reasons provided by the presiding officer on either refusing a firearm licence or declaring a person unfit to possess a firearm.

7.3.1.3 Proper identification of firearms

Another means of increasing the effort through property marking, can take the form of installing microchips in the firearm, which can be scanned for detailed information. Micro-chip scanning devices similar to the Morph-touch apparatus can then be developed and used in police operations. Firearm Free Zones (FFZ) and Gun Free Zones (GFZ) at government departments and social places such as pubs, taverns, etc., can be another form of increasing the effort on violent encounters and to curb theft and negligent loss of firearms from firearm owners who are likely to be under the influence after visiting those places. Metal detectors at the above buildings will help in controlling the movement of firearms.

The above recommendations involve investing cash in technology to save lives. It is therefore important to have the support of top management in this endeavour, for the initiative to be a success.

7.3.2 Increase the risk of apprehension

Increasing the risk of apprehension or arrest is aimed at discouraging offenders and would-be offenders from committing criminal offences. Methods of increasing the risk include exit/entry screening, e.g. installing electronics such as merchandise tagging, bar coding, etc.; formal

surveillance, e.g. having police or security guards patrolling the area; and, rule setting, which entails organisations setting rules about punishable conduct.

In order for the FCA to effectively discourage offenders from contravening the Act, the rules and punishable conduct should be properly researched, practical, understandable and effective. From empirical research it is evident that the police management responsible for enforcement of the FCA put effort into the FCA, hence the two amendments that they drove to Parliament.

However, the administrative fines as contained in section 122 of the FCA, remain vague and open to abuse. Again, the FCA is silent about firearm owners with stress or depression, and people with a psychiatric history.

It is recommended that the vagueness of the administrative fines be narrowed and made specific, so that there can be uniformity in discouraging would-be offenders. The FCA should also make provision to compel service providers to give information on firearm applicants with depression and a psychiatric history. The patient/ doctor relationship, as practiced in the medical arena regarding confidentiality, can be bridged by designing a non-offensive and user-friendly form that will require a doctor to just sign a certificate where he does not recommend his patient “due to medical reasons”, or he recommends because “the patient went through rehabilitation/ medical process and is now fit to make sound/independent decisions”.

The government should also declare amnesty regularly, e.g. after every five-year renewal period, coupled with the “Buy Back System”. The government “buy back system” will encourage estates and beneficiaries to voluntarily surrender firearms in their possession, and this may result in fewer firearms in circulation. Harsh sanctions should then be imposed on those who are still in possession of firearms after the two processes. The above exercises, combined with the tighter firearm licensing process, are likely to ensure that the firearm exit door is widened while the entrance door is narrowed.

By increasing the risk, at-risk individuals are likely to abide by the government regulations on restriction of firearms from at-risk individuals, thereby reducing the number of firearms in at-risk

hands.

7.3.3 Reduce the rewards for non-compliance with the Act

This entails strategies designed to reduce the value of crime to the potential criminal, such as installing car radios with removable faces, and marking property to make it difficult to sell. Property marking can be regarded to be reasonably done if 153 000 of the 208 000 stolen firearms were tracked back in a period of nine years as indicated in table 2.3.

Effective sanctions are extremely important if the state wants to reduce the value of firearm-related crime. Punishment meted out to negligent firearm owners whose firearms negligently land in the hands of children or unauthorised people and are used in accidental shootings, needs to be stepped up to urgently address the current upward trend. Again, if the firearms can be tagged or encoded, and a code reading machine similar to the Morph-Touch is developed and used at roadblocks, the recovery rate of firearms can improve. Administrative fines should be imposed on people who provide wrong information to the police when applying for firearm licences, to avoid a situation where the justice system will lose public respect. The current practice where all cases of providing false information are withdrawn by prosecutors, give the public the feeling that the DFOs are just doing a pen exercise by charging them, as nothing comes of it.

If the punishment or consequences attached to FCA contravention outweigh the rewards, the possibilities are great that compliance with the FCA will improve.

7.3.4 Inducing guilt or shame on FCA transgressors

Inducing guilt or shame includes strategies such as rule setting, strengthening moral condemnation, controlling disinhibitors and facilitating compliance. It involves any legal initiative that induce guilt or shame on transgressors, like publishing names of offenders in the newspapers, providing waste bins at common littering places, introducing caller id to curb obscene phone calls, etc.. Rule setting involves setting clear cut rules on what needs to be done to avoid exploitation of ambiguities that may exist. Controlling disinhibitors relates to

minimising conditions that impair the ability of individuals to critically self-evaluate their behaviour.

According to empirical research, all firearm information is captured on the firearm system prior to their sale to individuals. The SAPS should introduce a single compressed form that will cater for multiple firearm applications. The form may be divided into sections e.g. part A – E whereby part A - D is to be completed by new firearm applicants, part A + D firearm renewals, and part A + E for competency certificate. With renewals, the form should be adapted in a way that the firearm applicants only tick relevant information, with a space for information correction alongside, because the firearm owner's information will already be available on the firearms database. By minimising paperwork and posting applications to the applicants, the police will be making the application process user-friendly and adding guilt feeling to the applicants who fail to comply with the FCA.

To further maximise service delivery, the DFOs should implement the Morph-Touch and digital cameras as initially indicated in the training manual. This will shorten the waiting period of fingerprints from the LCRC, and improve the quality of licences that are sometimes discarded due to poor photo images. The linkages of police computer systems such as Crime Administration System (CAS) and Criminal Profiling System (Crim) may also help DFOs to track firearm applicants' criminal activities outside their policing precinct, as part of extending the background check.

From the outcome of this study it appears that the public, particularly those who own firearms, know about the FCA. By embarking on massive awareness campaigns, the police in a way induced guilt in those firearm owners who chose to ignore and violate the FCA.

It is internationally proven that proper communication is effective in addressing crime levels in society. Feedback from the research indicates that the police did conduct awareness campaigns during the launching of the FCA, but never continued it. It is recommended that the campaigns be ongoing. The process also needs to be adjusted to make it more user-friendly.

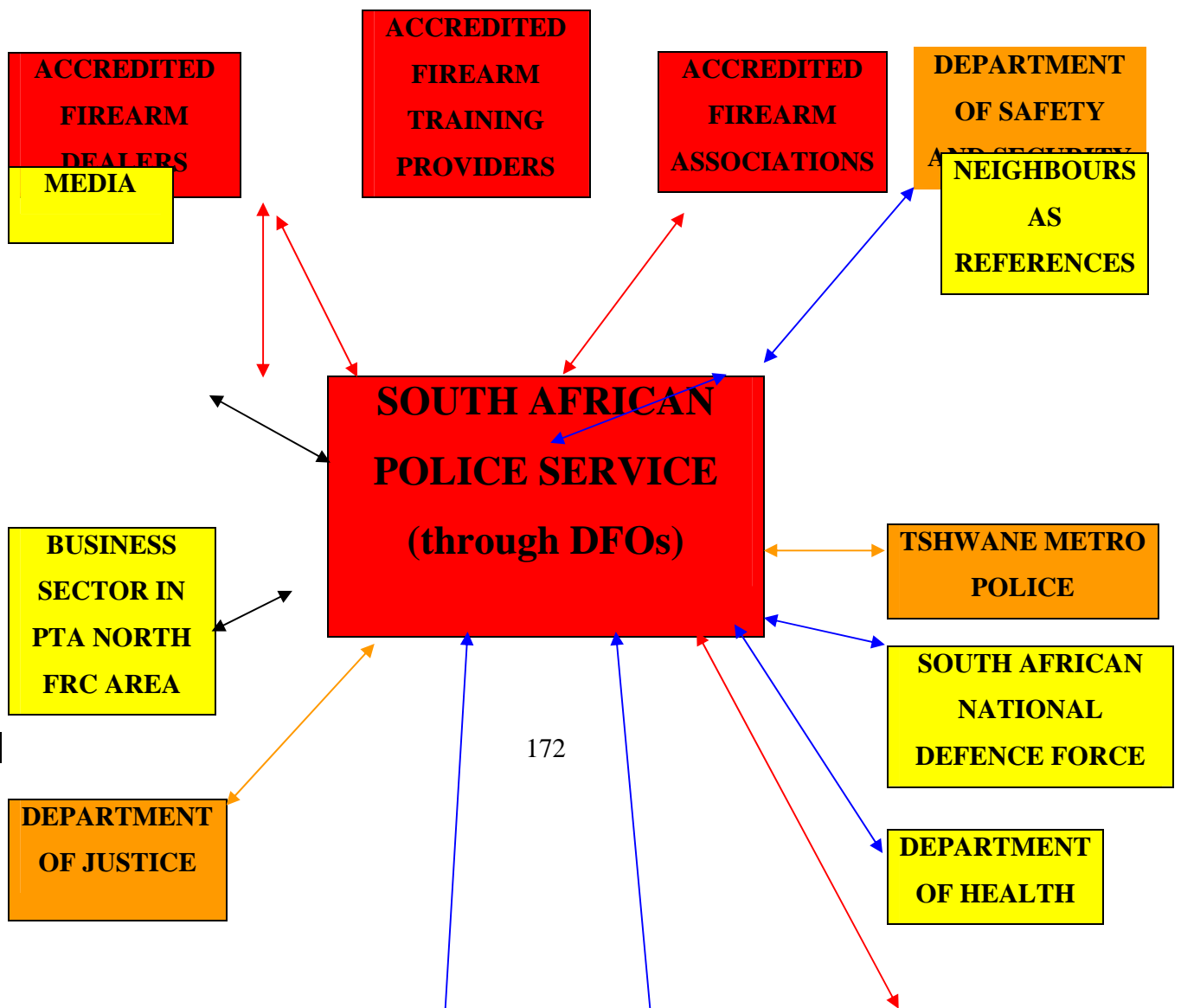
7.4 An integrated prevention plan for restricting firearm ownership for at-risk individuals in the Pretoria North Firearm Registration Centre policing area.

The researcher drafted an integrated plan for restricting firearm ownership for at-risk individuals in the Pretoria North FRC policing area, for all role players, to ensure that they play their appropriate roles accordingly.

The researcher is of the opinion that the South African Police Services (SAPS), through the Designated Firearm Officers (DFOs), are the primary role players in this integrated plan. It is, however, important that there should be close co-operation between the DFO, firearm dealers, firearm training providers, firearm associations and the firearm Appeal Board, as they all have a role to play in the process of licensing firearms in the applicant or institutions name. All the above role players are indicated in red in the organogram in Figure 6.1.

All the other role players who should be involved in the restriction of firearms from at-risk individuals in the Pretoria North FRC policing area, are coloured in yellow on the organogram in Figure 6.1, as secondary role players. Role players who are to an extent involved in the enforcement of the FCA are, however, indicated in orange. The roles and linkages of different role players are indicated by blue and red arrows. The red arrows indicate the interlinkages of the roles played by the primary role players, and the blue arrows indicate the roles of the secondary role players.

The organogram is followed by a list of responsibilities of each role player in the integrated plan. It is recommended that there should be a constant liaison between the role players co-ordinated by the Pretoria North FRC, to ensure effective restriction of firearms from at-risk individuals.



**PRIVATE SECURITY
COMPANIES IN PRETORIA
NORTH FRC AREA**

**FIREARMS
APPEAL
BOARD**

7.5 Responsibilities of role players in restricting firearms from at-risk individuals

**COMMUNITY
POLICE FORUM**

- **Primary Role Players**
- **Secondary Role Players**

Figure 6.1 Organogram of role players in restricting firearms from at-risk individuals in Pretoria North FRC area

SOUTH AFRICAN POLICE SERVICE

- Recruitment and appointment of members as Designated Firearm Officers and detectives to administer and investigate firearm-related cases.
- Resource allocation such as vehicles, computers with mainframe, scanners and proper management of those resources.
- Effective background checks, interviews, proper safe inspections and investigation of firearm-related cases in terms of section 102 and 103 of the FCA.
- Public education processes through posters, pamphlets, imbizos, Road shows, etc. regarding the FCA and responsible firearm ownership.
- Training of Designated Firearm Officers and constant workshops on new developments in the FCA.
- Co-ordination of DFO duties with related ones from the detectives, crime prevention units and other patrol vehicles as well as the courts.
- Absenteeism management to avoid backlogs and enhance service delivery.
- Recruitment, training and appointments of reservists for selected DFO duties
- Effective investigation of reported cases of theft of or negligent loss of firearm, circulation thereof and proper cancellation on recovery.
- Regular inspection at firearm dealers to ensure compliance with the FCA.

DEPARTMENT OF JUSTICE

- Recruitment of more public prosecutors.
- Specialization of prosecutors in firearm related cases.
- Constant training and workshops of prosecutors and magistrates about the development of the FCA, particularly section 103 unfitness declarations.
- Court officials to endorse correct particulars including the identity number of the individual whom the court declared unfit in terms of section 103.

MEDIA

- Both printed and electronic media to assist the SAPS in broadcasting and

publishing information about the FCA.

- Publicise unfitness declarations of shooting and other FCA related violations that they report in their publications.

BUSINESS SECTOR IN THE PRETORIA NORTH FRC AREA

- Invest money in firearm projects in that area.

ACCREDITED FIREARM ASSOCIATIONS

- Assist the firearm applicants in the completion of forms, and identification of at-risk individuals to the police.
- Proper screening of individuals who applies for a dedicated status.

ACCREDITED TRAINING PROVIDERS

- Proper training of firearm applicants in the safe handling of firearms and knowledge of the FCA.
- Identification of at-risk individuals to the police.

DEPARTMENT OF SAFETY AND SECURITY

- Supervision of the SAPS
- Declaration of premises or categories of premises to be Firearm Free Zones (FFZ)

ACCREDITED FIREARM DEALERS

- Responsible sale of firearms and ammunition to fit and proper people.
- Identification of at-risk individuals to the police.

NEIGHBOURS ACTING AS REFERENCES

- Be willing to be interviewed for firearm applicants' character.
- Provide the DFO with accurate information about the firearm applicants.
- Report violent incidents and firearm related misuse to the police.

APPEAL BOARD

- Proper liaison with the DFO when a decision is taken to grant or reinstate a firearm licence.

DEPARTMENT OF HEALTH

- Doctors to assist the police with information on psychiatric and stressing firearm applicants and owners.
- The department to provide information on alcoholics and drug addicts who own firearms and cannot be rehabilitated through their processes

SOUTH AFRICAN NATIONAL DEFENCE FORCE

- Provide training to the Defence Force members in the basic provision of the FCA

TSHWANE METRO POLICE

- Working closely with the DFO in enforcing by-laws that got bearing to the FCA, like firing shots in a municipal area, handling a firearm whilst under the influence of liquor, etc.

PRIVATE SECURITY COMPANIES IN PRETORIA NORTH FRC AREA

- Close co-operation with the South African Police Services in restricting firearms from unfit security guards and other at-risk individuals.

COMMUNITY POLICE FORUM

- Assist DFOs in launching firearm awareness campaigns.
- Assist DFOs in identifying at-risk individuals from the community.

7.6 Conclusion

This chapter summarises Chapters 1 to 6, where after recommendations are made to address the

obstacles impeding the impact of the FCA in effectively restricting firearms from the hands of at-risk individuals. It is clear that if the SAPS management commit themselves to the recommendations made in this chapter, the problems and administrative obstacles impeding the effectiveness of the FCA in restricting firearms from at-risk individuals will to a great extent be clarified. This, in turn, will impact positively on the effective management of firearms and reduction of firearm-related incidents in South Africa.

This study is important, as the obstacles in effective restriction of firearms from the hands of at-risk individuals, 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 subcategories have indicated. Despite the massive effort put into the FCA, this data still presents a disappointing picture of scepticism, since many practices at the ground level do not reflect the intentions of the legislation, policies and directives. Although various directives on the FCA have been implemented, it has emerged that mechanisms to address firearms in the hands of at-risk individuals have been difficult to successfully put into practice. Aspects such as background checks were added to the FCA to enhance its effectiveness, but fail to fully make their intended impact because of discrepancies in their application. Despite the two amendments to the FCA, much still needs to be done, as the recommendations suggest.

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Map of Southern Africa indicating South Africa

Addendum A1



Map of South Africa indicating Gauteng Province

Addendum A2

|



Map of Gauteng indicating Pretoria

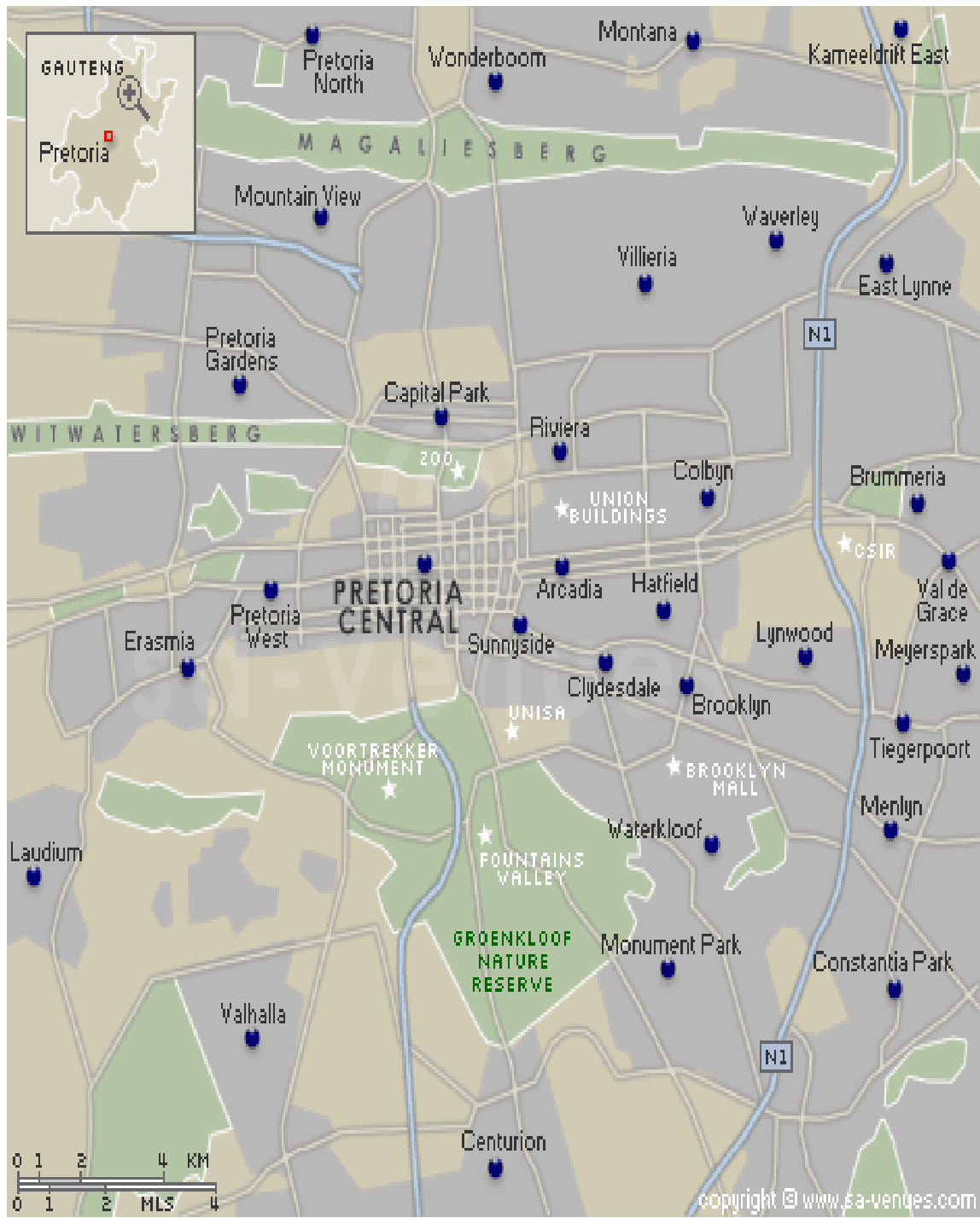
Addendum B

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Map of Pretoria indicating Pretoria North

Addendum C



ADDENDUM D

INTERVIEW QUESTIONS

1. The firearms Control Act, 60/2000 came into effect on the 1ST of July 2004, to replace the Arms and Ammunition Act, 75 of 1969.
 Could you explain in as much details as possible the process that was undertook to move over to the new Act.? -----

2. In 2006, the firearms control amendment Act was proclaimed. Could you explain why was the amendment proclaimed just under two years after the Firearm Control Act (FCA) 60/2000 ?-----

3. The introduction of the FCA and the Amendments thereof later, how did they affect firearm administration and control thereof ?-----

4. In your understanding who will you regard to be “at-risk” of processing firearms?-----

5. Does the FCA sufficiently restrict individuals in paragraph 4 from possessing firearms? **YES/NO**
 Motivate briefly:-----

6. Do you think the police are doing enough to enforce the problem of the provision of the FCA in restricting “at risk” individuals from possessing firearms-----

7. Does the court do enough to enforce the provision of the FCA in restricting “at-risk” individuals from possessing firearms?-----

8. Do you think the general public have sufficient knowledge of the FCA?-----

9. What did the SAPS do to educate the community about the FCA?-----

10. In your personal view, what are the inhibiting factors towards effective implementation of the FCA, with the view of restricting firearms from the hands of “at risk” individuals.-----

11. Anything you feel can be added or removed from the FCA to maximize restriction of firearms to “at risk” individuals-----

Together striving for responsible firearm ownership

ADDENDUM E

INTERVIEW SCHEDULE

THE IMPACT OF FIREARMS CONTROL ACT 60/2000 IN RESTRICTING GUN OWNERSHIP FOR AT RISK INDIVIDUALS IN THE PRETORIA NORTH FRC POLICING AREA.

Please answer each question with either an X in the applicable block and give details where needed.

SECTION A : BIOGRAPHIC INFORMATION

1. Title				2. Race			
Mr	Mrs	Dr	Prof	African	Coloured	Indian	White
3. Gender		4. Age Group					
Male	Female	Under 30	31-35	36-40	41-45	46-59	60+
5. Reason for owning a firearm							
Own protection	Self defence	Work	Sport	Hunt	collection	Other (Specify)	

6 In which police station area do you stay?				
Pta North	Akasia	Soshanguve	Rietgat	Wonderboompoort
Kameeldrift	Hammanskraal	Pta Moot	Villieria	
7. How long have you owned a firearm?				
Less than 2 yrs	3-5yrs	6-10yrs	11-15 yrs	15+
8. Type of firearm				
Handgun	Shotgun	Rifle	Hand carbine	Other (specify) : ----- ----

SECTION B: EXPERIENCES AROUND THE BACKGROUND CHECKS I.T.O THE APPLICATION/RENEWAL OF FIREARM LICENCE

Your opinion on the following	Very good	Good	Unsure	Bad	Very bad
1. The introduction of the background checks to firearm applicants					
2. The choice of people who must be interviewed.					

3.Relevancy, of the questions to the interviewee					
4. The way police conduct background checks					
5.Interview with the spouse of the applicant					

6. Have the police ever interviewed you for someone else’s firearm application?

YES	NO
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If yes, answer questions 6.1, and 6.2

If no, go to question 7

6.1. If yes, who was the applicant?

Spouse	friend	neighbor	Other (specify)
---------------	---------------	-----------------	--

6.2. Was the interview conducted professionally?

YES	NO
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Motivate briefly:

.....

7. How did you feel about the whole process of applying for/ renewing a firearm licence?

.....

8. What suggestions can you make to improve/ change the current firearm licence application/ renewal process?

.....

SECTION C: RESPONDENT'S PERSPECTIVE ON THE VALUE OF THE NEW MEASURES IN THE FIREARMS CONTROL ACT ON FIREARM OWNERSHIP

How do you rate the following	Poor	Fair	Unsure	Good	Excellent
1. Own knowledge of the Firearms Control Act.					
2. Public knowledge of the Firearms Control Act					
3.Enforcement of the Firearms Control Act by the Police					

4. Enforcement of the firearms Control Act by the courts					
5. Effectiveness of the Firearms Control Act in restricting ownership to at-risk individuals					
6. Rate of background checks in restricting firearms to at-risk individuals					
7. Rate of background checks in restricting firearms to risky individuals					
8. Fingerprints as a tool to detect previous records.					
9. Five year renewal period on all firearm owners licences					

Thank you for your participation

**Please return completed questionnaires to: LS Bopape, P.O Box 57, Braamfontein, 2027
 Fax (011) 497 7210, Tel no. (011)497-7223 Cell 0823006290, or Professor Rika Snyman
 on Email Rsnyma@unisa.ac.za, Tel 011-4713560, Fax 011-4712255**

DATA COLLECTION INSTRUMENT : FIREARMS RECORDS : 2004-07-01 TO 2006-12-31

SECTION A : RECEIVED APPLICATIONS

1. Total applications received:

	Renewal	New licence
July 2004 - December 2004		
January 2005 - June 2005		
July 2005- December 2005		
January 2006 - June 2006		

July 2006- December 2006		
TOTAL		

SECTION B : REFUSED FIREARMS APPLICATIONS

2.

	Renewal	New licence
July 2004 - December 2004		
January 2005 - June 2005		
July 2005- December 2005		
January 2006 - June 2006		
July 2006- December 2006		
TOTAL		

3. Type of firearms applied for :

Hand Gun	Shot Gun	Rifle	Hand Carbine
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5. Reason for refusal :

.....

SECTION B : UNFITNESS DECLARATION BY THE POLICE

6. Total nr of Section 102 enquiries opened :

July 2004- December 2004 :

January 2005 - June 2005 :

July 2005-December 2005 :

January 2006 - June 2005 :

July 2006- December 2006 :

Totals :

7. Total nr of people declare unfit i.t.o section 102 :

July 2004- December 2004 :

January 2005 - June 2005 :

July 2005- December 2005 :

January 2006 - December 2006 :

July 2006 - December 2006 :

Total :

9. Date of unfitness enquiry (section 102) : MonthYear

10. Charge / Contravention of the Act :.....

.....

11. Incident that led to the unfitness declaration :

.....

12. Type of firearm(s) that the respondent owned:

.....

SECTION C : UNFITNESS DECLARATION BY THE COURT.

13. Total nr of Section 103 unfitness instituted by the courts :

July 2004- December 2004 :

January 2005 - June 2005 :

July 2005- December 2005 :

January 2006 - December 2006 :

July 2006 - December 2006 :

Total :

14. Charge / Contravention that led to the unfitness :

.....

15. Type of Firearm that respondent owned :

.....

Thank you for your participation

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