

**'Under the gun': An assessment of firearm crime and violence  
in South Africa**

Guy Lamb  
Programme Head: Arms Management  
Institute for Security Studies  
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## **Introduction**

According to a 2006 study of firearm deaths in 112 countries, South Africa had the third highest annual rate of reported firearm deaths (26.8 per 100,000 people), after Columbia and Venezuela. The overwhelming majority of reported firearm deaths in South Africa are recorded as homicides (97 per cent) (Cukier and Sidel, 2006). As with much firearm crime and violence in South Africa, most homicides are reportedly committed with illegal firearms, which researchers claim to have been primarily stolen from and/or lost by licensed civilian owners, state armouries, and state personnel (Chetty, 2000: 45; Gould and Lamb, 2004: 133-266; Kirsten, 2007: 1). Of the approximately 20,000 murder victims in South Africa in 2007, close to half died as a result of firearms.

The South African government has prioritised the combating of violent crime since the late-1990s. More comprehensive and stringent firearm control legislation covering private citizens, businesses, and state institutions was promulgated in 2000 and was gradually implemented between 2000-2004. The goals of the legal reform process were to promote more responsible firearm ownership and possession and reduce firearm diversions to criminals. However, this reform process has not been uniformly welcomed. Pro-firearm groups and the main political opposition, the Democratic Alliance (DA) have criticized what they perceive to be unequal implementation and enforcement of the firearm control law. They have suggested that the severe penalties that private citizens have been subjected to have not been consistently applied to public institutions (Gould and Lamb, 2004, pp. 207-212).

This report provides a description and analysis of firearms crime, violence and the legislative reform process in South Africa for the period 1994 to 2007. In addition, it considers the problem of firearms diversion, namely the extent to which licensed or official firearms possessed by civilians, private security companies, the police, the military, and other government agencies, enter the illicit sector. The report concludes with reflections on the impact of the firearm control legislation in reducing firearm violence, crime and diversion.

### **Section 1: Firearm crime and violence in South Africa**

In 2000, the National Crime Prevention Centre published disaggregated firearms data and analysis for the period 1994 to 1998 in a booklet titled: *Firearm use and distribution in South Africa*. It reported an average of 25,743 murders each year over the four-year period, of which an average of 44.4 per cent involved firearms. The most common firearms used to commit murder were reported to be handguns (pistols and revolvers). In 1998, for example, handguns

were used in 57.4 per cent of all firearm-related murders. Commercial rifles and shotguns also featured significantly in reported firearm-related murders (24.8 per cent) (Chetty, 2000, pp. 18-31).

There were a similar number of reported cases of attempted murder over the period, with an average of 27,979 per year over the period, of which an average of 79.5 per cent involved firearms. In 1998, handguns accounted for 80 per cent of total cases of attempted murder involving a firearm, while commercial rifles and shotguns accounted for 6 per cent. From 1996 to 1998 there were an average of 13,668 cases of illegal possession of firearms/ammunition. In addition, from 1994 to 1998, on average of 19,879 civilian held firearms were reported lost or stolen.

Since 2000, the South Africa government has not made disaggregated firearm data publicly available. Consequently, one can only speculate about firearm crime and violence trends since 1998 on the basis of aggregated crime data and media reports. There are also some credible mortality studies that have that have the potential to inform this speculation, such as that by National Injury Mortuary Surveillance System (NIMMS) and Statistics South Africa.<sup>1</sup>

Table 1: Reported incidents of violent crime in South Africa (April to March 1994/1995 to 2006/2007)

Year	Murder	Attempted murder	Carjacking	Robbery of cash in transit	Illegal possession of firearms & ammunition
1994/95	25965	26806	n/a	n/a	10999
1995/96	26877	26876	n/a	n/a	12336
1996/97	25470	28576	12912	359	12750
1997/98	24486	28145	13052	236	13386
1998/99	25127	29545	15773	223	14714
1999/00	22604	28179	15172	226	15387
2000/01	21758	28128	14930	196	14770
2001/02	21405	31293	15846	238	15494
2002/03	21553	35861	14691	374	15839
2003/04	19824	30076	13793	192	16839
2004/05	18793	24516	12434	220	15497
2005/06	18545	20553	12825	385	13453
2006/07	19202	20142	13599	467	14354

Source: South African Police Service website (<http://www.saps.gov.za>)

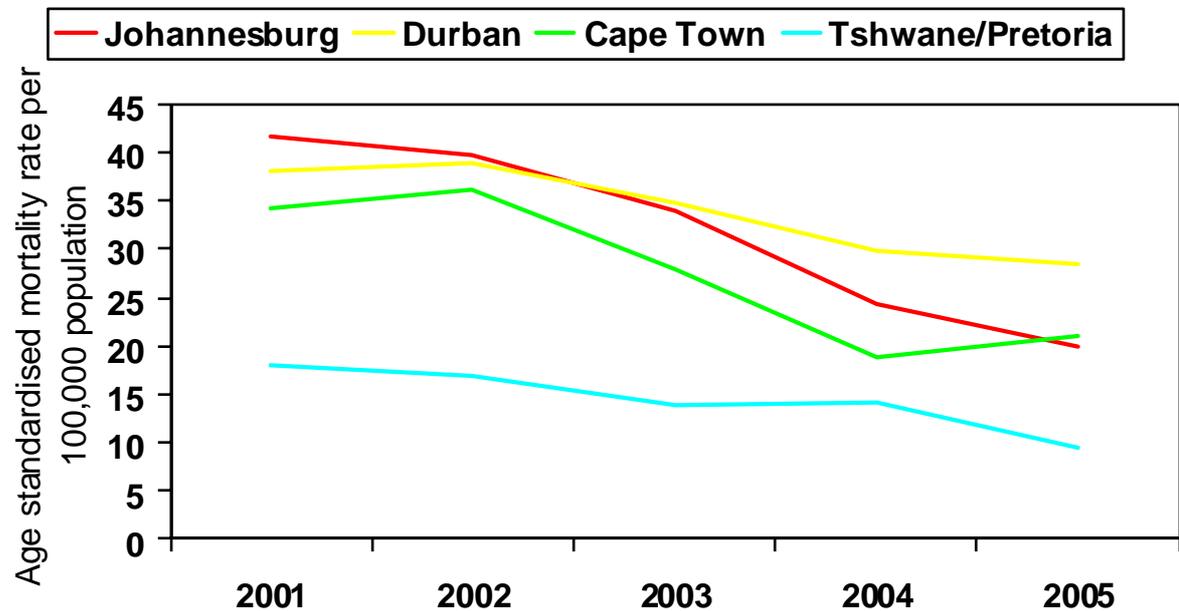
From 2002/03 to 2006/07, an average of 19,583 murders were reported in South Africa, which is a 23.9% decrease compared to the

<sup>1</sup> See: National Injury Mortuary Surveillance System (NIMSS). 2006. Fatal violence in South Africa – the role of firearms. (Pretoria: NIMSS); Statistics South Africa. 2006. Adult mortality (age 15-64) based on death notification data in South Africa: 1997-2004, (Pretoria: Statistics South Africa).

period 1994/95 to 1998/99 (see Table 1 above). Hence it is highly probable that firearm-related murders have also declined in recent years. A study by NIMSS (2007) revealed that firearm-related deaths (relative to other non-firearm violent deaths) in major urban areas decreased by approximately 50% from 2001 to 2005 (see figures 1 and 2 below).

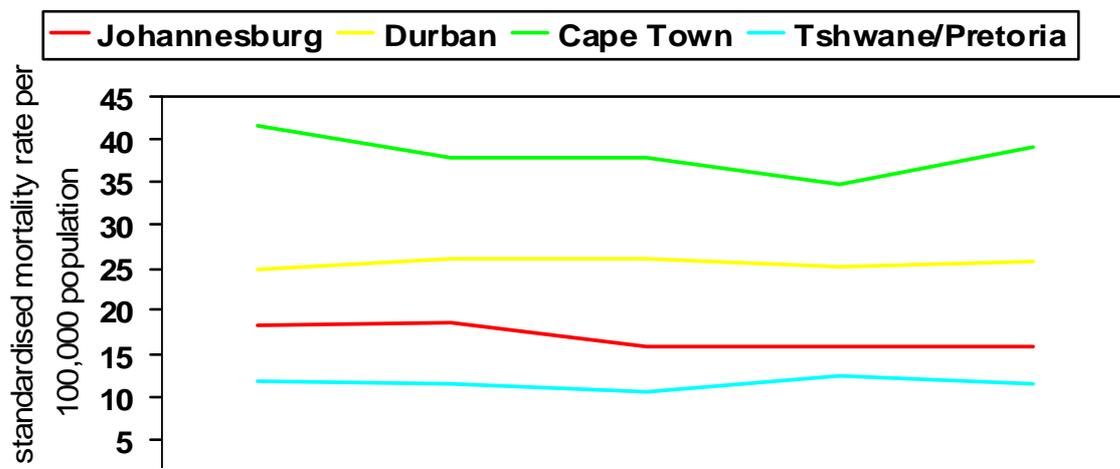
Firearm-related injuries, however, remain one of the leading causes of non-natural death in South Africa (NIMSS; Statistics South Africa, 2006: 117-119). An assessment by the ISS (2008) of media reporting on firearm violence in South African indicates that handguns remain the firearm of choice for criminals.

Figure 1: Firearm mortality rates in major urban areas: 2001-05



Source: NIMMS, 2007

Figure 2: Non-firearm mortality rates in major urban areas: 2001-05



Source: NIMMS, 2007

From 2002/03 to 2006/07, an average of 26,230 cases of attempted murder were reported per year. This is a minor reduction compared to the period 1994/95-1998/99, but there is no disaggregated data available to determine if there has been an increase or decrease in the reported incidents of attempted murder with a firearm.

From 2002/03 to 2006/07 there was an average of 15,196 cases of illegal possession of firearms/ammunition, which was an increase of 11% compared to the period 1994/95-1998/99 (see Table 1 above).

There appears to be no discernable trend with regards carjacking and cash-in-transit robberies, although from 2003/04, incidents of cash-in-transit robberies have been on the increase, with 2006/07 recording the highest number of incidents since 1995/95.

## **Section 2: Firearm legislation reform process**

Given the relatively high levels of firearm crime, the Ministry of Safety and Security and the South African Parliament moved to amend the firearms control legislation, and more specifically promote more responsible firearms ownership and use. This took place with the context of a more concerted effort on the part of government to address crime in a more coordinated and focused manner. That is, from March 1995, Cabinet initiated the National Crime Prevention Strategy, a more integrated and comprehensive policy approach, which shifted the focus from crime control to crime prevention.

The reform of South Africa's firearm control laws was facilitated by means of a process of public consultation, which was initiated by the Secretariat for Safety and Security and the Parliamentary Portfolio Committee on Safety and Security in 1998. Submissions from the public were invited, and both pro-gun and pro-gun control groups responded enthusiastically, submitting hundreds of documents, including letters, reports, and signed petitions. During the public consultations, an informal collaboration between the South African Police Service (SAPS), the national police force, and firearms control groups, particularly the Gun Control Alliance, emerged due to their shared goal of formulating more rigorous firearms control legislation,

structures, and processes in South Africa. However, the majority of submissions by pro-gun groups offered little in the way of positive, non-violent recommendations to reduce firearm crime in South Africa. Consequently, most of the pro-firearm groups were marginalized in the drafting process, and hence many of their key concerns were not taken into account in the text of the revised firearms control legislations.<sup>2</sup>

This consultation process culminated in the formulation of the Firearms Control Act (FCA) of 2000, which replaced the Arms and Ammunition Act (AAA) of 1969. The FCA introduced more stringent eligibility and competency requirements for legal firearm owners, both state and civilian. Chapter Five of the FCA requires successful civilian firearm license applicants to be, *inter alia*, a South African citizen or a permanent resident; 21 years or older (previously the minimum age had been 16); a 'fit and proper person'<sup>3</sup>; of a stable mental condition and not inclined towards violence; not addicted to drugs or alcohol; not convicted of a violent crime within the past five years; in possession of an appropriate firearm safe; and in possession of a competency certificate.

The competency certificate, which had not been a requirement of the AAA, is arguably the most innovative firearm control feature of the FCA. In order to be awarded a competency certificate, applicants are tested on their knowledge of the FCA, as well as demonstrating their safe handling of firearms. Government-accredited service providers may only administer testing for competency certificates. Applicants also undergo an extensive background check, and this can entail interviews with intimate partners and/or neighbours by SAPS personnel. Other key reforms include the restriction of the number of firearms that individuals may possess (a maximum of four licenses per individual, with a maximum of one licence for self-defence)<sup>4</sup>; and the mandatory renewal of licences on a regular basis, depending on the type of firearm license (e.g. five years for self-defence licences, ten years for sports-shooting, ten years for a private collection, two years for a business license and ten years for hunting licenses) (Chapter 6, Sections 11-27); and the inclusion of more comprehensive criteria for declaring a person unfit to possess a firearm (Chapter 12, Sections 102, and 103).

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<sup>2</sup> A more detailed analysis of formulation of this legislation appears in King, Proudlock and Michelson (2006).

<sup>3</sup> There is no definition of 'fit and proper' within the FCA, although it does relate to a person's mental condition, history and predisposition to violence, as well their criminal history. The reason for this lack of definition is to provide the Registrar of Firearms with a degree of discretion in the granting of a firearm license.

<sup>4</sup> The FCA allows for the issuing of additional licences to professional hunters and sports-shooters. However, the number of additional licences is determined by the Registrar of Firearms on a case-by-case basis.

The AAA permitted a firearm licence holder to lend his or her firearm to another person (who did not require a firearm licence) if the license-holder provided written permission. Drafters of the new law perceived this provision as contributing to firearm proliferation and misuse and closed this loophole in the FCA. A firearm owner is now only permitted to lend his or her firearm to a person (licensed or unlicensed) when the borrower is 'under his/her immediate supervision where it is safe to use the firearm and for a lawful purpose' (Chapter 6, Section 22).<sup>5</sup>

The FCA only came into effect officially in July 2004, as it took close to four years to finalise the Regulations of the FCA and secure parliamentary approval of this document. However, from time the legislation was passed in 2000, SAPS began to 'roll out' a new, more intensive firearms control regime in line with the new law's provisions. Thus over the period 2000-2004 it is possible to look for effects of the new regulations, though the picture is difficult to see because of a lack of comprehensive data.

## **Section 2: Civilian firearm diversion (loss and theft)**

From 2000, the Central Firearms Register (CFR), which is an entity with SAPS, and subject to the same rules and regulations as other SAPS divisions, began applying stricter criteria for civilian firearm licence applications.

Table 2: Annual total civilian firearm licenses issued, 1994-2001

<b>Year</b>	<b>Number</b>
1994	242911
1995	154727
1996	199365
1997	200059
1998	179523
1999	187284
2000	131489
2001	161518

Source: SAPS CFR

For example (as indicated in Table 2 above), between 1994 and 1999 an annual average of 194,000 private civilian firearm licence applications were approved by the CFR, but for the years 2000 and 2001, the annual average of approvals decreased by 24 per cent to 146,500. By 2003, the number of total licensed firearms had fallen from 4.5 million in 1999 to 3.7 million. By the end of 2007, SAPS informally indicated that there were between 2.5-3 million licensed

<sup>5</sup> The motivation behind this provision was primarily to allow for firearm training for, and firearm use by hunters under the age of 21.

civilian firearms in South Africa, a 44 per cent reduction since 1999. In an independent 2003 study, gun dealers and gun shop owners confirmed a noticeable decline in completed gun sales due to the introduction of more lengthy and stringent licensing procedures by the SAPS (Gould and Lamb, 2004, pp. 212-227).

The impact of the FCA on reducing firearm crime, violence and diversion is difficult to determine. One major drawback is that the South African Police Service has not released disaggregated firearm crime data since 2000.<sup>6</sup> The reasons for this are not altogether apparent. However, the CFR, the custodian of all firearm-related data in South Africa has, since 2000, increasingly been required to respond to legal challenges on its implementation of the FCA by unsuccessful firearm licence applicants and pro-firearm associations and lobby organisations. Hence as ironic as it may seem, it is possible that the CFR has avoided the publication of disaggregated firearm data out of concern that it may be employed by some opponents of the FCA to undermine the CFR's firearm control efforts.

Table 3 below provides details on the number of firearms lost or stolen from 1994 to 2006, and the number of firearms recovered or confiscated from 1994 to 2006.<sup>7</sup> Between 2000 and 2006, an average of 18,731 civilian firearms were reported lost or stolen, a 5.8 per cent decrease compared to the period 1994-1998.<sup>8</sup> However, more importantly, from 2004 (when all of the provisions of the FCA came into effect) to 2006, an average of 15,054 civilian firearms were reported lost or stolen (a 24 per cent decrease). This may be an indication that the FCA has achieved some successes in promoting more responsible and safe firearm ownership amongst civilian firearm license holders.

Table 3 (below) shows that from 1994 to 2003 there was an annual increase in the number of firearms recovered or confiscated by SAPS. In fact, by 2003 there had been an increase of 450 per cent compared to 1994. However, as Table 3 and Figure 1 reveal, there has been a gradual decline in the number of recoveries/confiscations since 2005, which is probably due to the gradual decline in loss/theft of firearms, the firearm amnesty process<sup>9</sup> (in which 100,066 firearms were

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<sup>6</sup> Civil society organisation and the business sector have put pressure on SAPS to release disaggregated firearms related data, but to they have so far not obliged.

<sup>7</sup> SAPS data do not distinguish between guns that are unintentionally lost and those that are stolen; or between those that have been recovered and returned to their owners and those that have been confiscated (presumably because either the guns are illegal or the owners are prohibited).

<sup>8</sup> Data relating to the loss and theft of firearms is combined by the SAPS, and often firearms that have in reality been lost (hence negligence) are often reported as being stolen, as the penalties for losing a fire can be severe.

<sup>9</sup> A firearm amnesty process was initiated in 2005 to collect unlicensed firearms. The key motivation was that the SAPS suspected that there were significant numbers of unlicensed firearms in existence due to the to the reduction in the maximum number of licensed firearms for civilians (as per the FCA, and that

collected) that was implemented in 2005, as well as the successful recoveries/confiscation of previous years.

Table 3: Civilian firearms reported lost/stolen (1994/95-2006/2007) and recovered or confiscated (1994/95-2004/2005)

Year	Number of firearms lost/stolen	Number of recovered firearms
1994/95	14,158	6,727
1995/96	15,045	9,834
1996/97	18,619	11,185
1997/98	29,009	10,750
1998/99	22,563	13,712
1999/00	22,740	14,272
2000/01	21,996	15,421
2001/02	21,892	19,756
2002/03	21,641	21,607
2003/04	20,427	30,208
2004/05	15,837	23,813
2005/06	14,842	12,351
2006/07	14,682	13,120

Source: SAPS Annual Reports (<http://www.saps.gov.za>)

It is important to note that not all the firearms that were recovered or confiscated by SAPS during this period were not necessarily those that were reported lost/stolen during the same period. Many of the weapons recovered or confiscated were likely reported lost/stolen prior to the year they were recovered.

### **Section 3: Diversion from private security companies**

The FCA introduced more stringent requirements for private businesses, particularly private security companies that utilize firearms to provide a service to either government or the public (FCA Chapter 6, Section 20). The requirements for business licenses closely resemble private civilian licences. Each business firearm user must earn a competency certificate and be a 'fit and proper person,' and the license has to be renewed every five years. However, the firearm may

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numerous firearms had been inherited without being licensed. Owners of unlicensed firearms were encouraged to surrender these firearms to SAPS with the commitment from the authorities that no legal action would be taken against such individuals so long as the firearm had not been used in the commission of crime (ballistic testing of surrendered firearms was carried out). No financial compensation for these firearms was provided. See Kirsten 2007 for more details.

only be used for business purposes (unless otherwise prescribed) and may not be used by another person (if prescribed). In practice, this means that security personnel are generally not permitted to carry their firearms when they are off-duty. In addition, multiple people may use business firearms. However, the user typically requires a competency certificate. The FCA prohibits private security officers from using their own firearms on duty, as had previously been commonplace in the industry. To conform to this change, many private security companies that had previously relied on employees using their own firearms on the job, were obliged instead to acquire new 'company firearms'.<sup>10</sup>

Qualifying businesses are required to maintain accurate registers of the firearms and ammunition in their possession (which must be made available to SAPS on request), as well as provide required safe storage facilities. In addition, should the business cease to operate, the owners must safely store the firearms and and/or surrender it to SAPS. In practice, the owners of failed businesses transfer their firearms and ammunition to SAPS for safe storage as they are not in a position to safely secure such weapons.

According to the Private Security Industry Regulatory Authority (PSIRA), as of March 2006, there were 4,763 registered private security providers in the country, an increase of 124 or 3 per cent than twelve months earlier. There were 296,901 registered and active security officers, and 689,845 registered but inactive security officers. Reflecting increased public concern about crime, the number of registered, active security officers was 53 per cent higher than five years earlier, though the number of registered private security companies had fallen 16.5 per cent over the same period due to industry consolidation (Private Security Regulatory Authority, 2006, p. 34).

Data on the number of firearms held by security company employees is generally not publicly available. However, in 2003, the CFR reported that 1,643 of the security companies then in operation possessed firearms, and that the total number of firearms in their possession was 58,981.<sup>11</sup> Armed response companies claim that the loss or theft of company firearms is rare. Guard companies also claim the same. By contrast, assets-in-transit (AIT) companies (which also transport cash) report firearms thefts on a regular basis. AIT officers are invariably armed while moving assets, they are attacked more frequently than any other private security company officers, and their attackers are almost always armed. For these reasons, AIT firearms are typically

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<sup>10</sup> Interviews with private security companies, Johannesburg, Pretoria, Durban, Cape Town, 2003.

<sup>11</sup> Central Firearms Registry presentation to parliamentary portfolio committee on safety and security, September 2003, cited in Gould and Lamb, 2004, page 185.

stolen during successful heists.<sup>12</sup> In the absence of public data, AIT heists provide an important indicator for firearms diversions from the private security industry.

Since April 2003 there has been a significant increase in the number of reported cash-in-transit robberies. In 2003/04 SAPS reported 192 cash-in-transit robberies in 2003/04, 220 in 2004/05, 383 in 2005/06, and 467 in 2006/07 (see Table 4 below). This represented a 243% increase in such robberies between 2003/04 and 2006/07. SAPS described many of these robberies as 'repeat offences committed by experienced perpetrators at the request of syndicate leaders.'<sup>13</sup> There had been 374 heists in 2002/03, and 238 in 2001/02.

Table 4: Cash-in-transit heists for the period April to March 2001/02 to 2006/07

Province	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07
Eastern Cape	17	19	19	23	26	20
Free State	8	12	4	2	1	14
Gauteng	94	141	71	82	141	172
KwaZulu-Natal	41	85	35	22	66	121
Mpumalanga	16	51	26	32	19	18
North West	33	29	14	25	33	20
Northern Cape	0	0	0	2	0	1
Limpopo	15	23	12	12	44	23
Western Cape	14	14	11	20	53	78
<b>Total</b>	<b>238</b>	<b>374</b>	<b>192</b>	<b>220</b>	<b>383</b>	<b>467</b>

Source: SAPS: <http://www.saps.gov.za>

AIT companies estimate that their vehicles carry on average between two and three firearms. Assuming that each AIT vehicle successfully attacked in 2006/07 carried 2.5 firearms, an average of 1,168 firearms would have been stolen in this way during the period (Gould and Lamb, 2004: 190). Figures providing total non-state firearm losses for this period had not been released at the time of writing. However, using the same formula it may be estimated that 958 firearms were lost/stolen through AIT heists in 2005/06, accounting for 6.5 per cent of the 14,765 civilian firearms reported lost/stolen that year (see Table 3). However, it is important to note that the primary objective of those groups that target asset-in-transit vehicles are the assets, which is

<sup>12</sup> Interviews with private security companies, Private Security Regulatory Authority. The findings are discussed at greater length in author's contribution to Gould and Lamb 2004, page 184-194.

<sup>13</sup> See [www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA\\_Dir%20Sally\\_2006%202007%20financial%20year.pdf](http://www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA_Dir%20Sally_2006%202007%20financial%20year.pdf)

predominantly cash.

In addition to AIT heists, firearms can also be diverted from private security companies when they lose their authorization and go out of business. In a presentation to a parliamentary portfolio committee on safety and security in 2003, the then director of the PSIRA Eugene Vilakazi raised the concern that when security companies are deregistered their firearm licenses are not automatically cancelled, as required by law, alleging that in some instances security companies register and then deregister simply to obtain licensed firearms to which they were not really entitled. According to Vilakazi, the PSIRA had no means of checking what happened to private security companies' firearms after deregistration, though he informed the committee that it was working with SAPS on the issue. When asked whether PSIRA took stock of all the firearms possessed by a private security company before it withdrew its registration, Vilakazi said it did not, but that the process was 'being addressed'.<sup>14</sup>

In 1997 there were 4,437 registered private security providers, but by June 2004 this number had declined to 3,553. This reduction in the number of registered security providers is mainly attributed to mergers and buy-outs. In 2007, the number of registered private security providers had increased to 4,833 (Minnaar, 2007: 130). Given this state of affairs, it has not been possible to accurately determine the nature and extent of firearm and loss from defunct private security providers.

According to the FCA, when private security companies, or indeed any companies that have official firearms, cease to carry out their business, all their firearms and ammunition must be kept in safe storage (as indicated above) Asked by the same portfolio committee in November 2006 about the status of firearms of suspended or withdrawn private security providers, PSIRA suggested this remained a matter for the CFR alone.<sup>15</sup> The PSIRA again reported, however, a 'working relationship' with SAPS on the issue, but unlike in 2003 did not indicate that it was a matter about which it was particularly worried.<sup>16</sup> The CFR too has not publicly expressed any concern on the issue.

#### **Section 4: Firearms diversion from the South African Police Service**

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<sup>14</sup> Parliamentary Monitoring Group, Briefing by Private Security Industry Regulatory Authority to the parliamentary portfolio committee on safety and security, September 2003, cited in Gould and Lamb 2004, page 187.

<sup>15</sup> Private Security Industry Regulatory Authority power point presentation to parliamentary portfolio committee on safety and security, November 2006.

<sup>16</sup> Parliamentary Monitoring Group, Minutes for Private Security Industry Regulatory Authority presentation to parliamentary portfolio committee on safety and security, November 2006.

Key provisions of the FCA attempted for the first time to comprehensively reduce the potential for the misuse and diversion of state-held firearms. Chapter 11 of the FCA (Sections 95-101), employees of Official State Institutions, which include agencies such as SAPS, the SANDF and the Department of Correctional Services, require an official permit to possess a firearm.<sup>17</sup> A permit can only be issued if the state employee is a 'fit and proper person', and has 'successfully completed the prescribed training and prescribed test for the safe use of the firearm' (a competency test). If state employees are required to take their firearms home, then they are required by law to store them in an appropriate safe. Consequently SAPS provides those police personnel that are required to carry firearms with firearms safes. These provisions entailed a significant enhancement of firearm control processes and tools for Official Institutions.

In 1999, a Safety and Security ministerial policy on firearms control stated that over the previous nine years, 14,636 police firearms had been lost or stolen, an average of 1,626 per year.<sup>18</sup> This figure fell to an annual average of 883.5 from 2001 to 2005 (see Table 5),<sup>19</sup> but in 2005/06 it began rising steeply, reaching a high of 3,865 lost or stolen firearms in 2006/07.<sup>20</sup>

Table 5: SAPS firearms losses, April to May 2001/02 to 2006/07<sup>21</sup>

Year	Stolen	Robbery <sup>22</sup>	Lost/misplaced	Total
2001/02	131	368	444	943
2002/03	239	487	195	921
2003/04	219	412	304	935

<sup>17</sup> SANDF personnel are exempted from permit requirement while they are "performing official duties under military command" and "if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature and type of firearm they are authorised to carry". The reason for the provision is that the SANDF makes use of firearms that other users and institutions are prohibited from possessing, such as automatic firearms. In addition, the military's role is to engage in armed combat when required. However, SANDF personnel are not permitted to carry their official firearms when off-duty, and if they wish to acquire a private firearm license, then the normal civilian licensing procedures apply.

<sup>18</sup> Report to the Minister for Safety and Security: Proposed Ministerial Policy on the Control of Firearms in South Africa, September 1999, cited in Gould and Lamb, 2004, page 151.

<sup>19</sup> DA figures make a distinction between 'stolen' and 'robbery' though it is not immediately clear what this might be.

<sup>20</sup> Note that SAPS records statistics from 1<sup>st</sup> April – 31<sup>st</sup> March.

<sup>21</sup> Disaggregated data for 2005/06 and 2006/07 was not publicly available at the time of writing this chapter.

<sup>22</sup> It is not clear what in the SAPS view is the difference between firearms being stolen and robbed.

Year	Stolen	Robbery <sup>22</sup>	Lost/misplaced	Total
2004/05	179	289	267	735
2005/06	n/a	n/a	n/a	2,297
2006/07	n/a	n/a	n/a	3,856

Source: Democratic Alliance<sup>23</sup>

The apparent increased disappearance of police firearms has been extremely embarrassing to the SAPS, which is tasked with enforcing more responsible firearm possession and use among civilians. One likely explanation for the increased loss, however, is inadequate implementation of firearm control processes and measures within SAPS. For example, in the SAPS 2004/05 Annual Report, the Auditor General indicated that in many cases firearms and ammunition from terminated officials was not returned to SAPS, and that weaknesses existed regarding the safe storage of firearms by SAPS members. The following year, the Auditor General further found that SAPS firearm control registers were not properly maintained and that the required number of weapons inspections had not been undertaken (SAPS, 2006, Auditor General's Report).

In January 2007, SAPS National Commissioner Jackie Selebi appeared before the National Assembly's Standing Committee on Public Accounts (SCOPA) to respond to questions by members of parliament about the dramatic increase in the loss/theft of SAPS firearms. Selebi told the Committee that police personnel were being provided with safes to store their firearms at home, and that SAPS has introduced a more effective firearm marking system.<sup>24</sup> The September 2007 SAPS Annual Report (covering 2006/2007) implies that there was been some improvement in the internal firearm control measures. Namely, firearm registers were being appropriately maintained in three provinces, and that firearm inspections of SAPS holdings had improved. Nevertheless, the number of lost or stolen SAPS had increased to 3,856 (a 68 per cent hike from the previous year).<sup>25</sup>

The opposition Democratic Alliance (DA) was highly critical of the increase in SAPS losses/thefts of firearms, claiming that the National Police Commissioner had reneged on his promises to SCOPA.<sup>26</sup> However, Jaco Bothma, the director of the CFR, defended the SAPS, indicating that the police were fully compliant with the FCA. Bothma

23 Figures for 2001-2005 derived from answer to DA question in National Assembly, 28 June 2005; figures for 2005-07 from telephone interview with Diane Barnard, DA spokesperson, 20 September 2007.

24 Transcription of deliberations, National Assembly Standing Committee On Public Accounts, 20 January 20, 2007, cited in Democratic Alliance press release '*Selebi Fails to Keep Promises to Scopa*', September 20<sup>th</sup>, 2007.

25 South African Police Service (2007), Auditor General's Report.

26 Democratic Alliance press release '*Selebi Fails to Keep Promises to Scopa*', September 20<sup>th</sup>, 2007.

also suggested the apparent increase may be the result of better bookkeeping: that many of the SAPS firearms reported lost or stolen in 2006/07 had in reality been lost or stolen in earlier years, but had been reported due to improved SAPS firearms stock taking, as required by the FCA.

Meanwhile, a disturbing 2006 report by the Independent Complaints Directorate (ICD) about the Durban Metro Police Service (which is type of municipal police force established in terms of the SAPS Amendment ACT 83 of 1998, and is deployed in the Durban metropolitan area, but is independent from SAPS) gave an indication of problematic reporting dynamics of lost/stolen police firearms between policing structures in South Africa. The Durban Metro Police have their own firearm stocks and their members are subject to the same firearm control measures as SAPS personnel. The ICD investigated after it was informed of discrepancies in the reports of firearms alleged to be in the custody of, or reported to the Durban Metro Police as lost or stolen, and that some of the case numbers supplied to the ICD did not match Metro Police records or were non-existent. The ICD found that there were serious discrepancies between the Durban Metro firearms record, what the SAPS CFR had on record, and actual events as determined by ICD investigators. The ICD concluded that Durban Metro Police did not effectively implement the FCA provisions on the control over police firearms (Independent Complaints Directorate, 2006).

There has been some speculation that South African police personnel have been murdered for their firearms. From 2001 to 2006, 694 SAPS officers have been murdered in this regard (see Table 6 below).

Table 6: Attacks on and murders of SAPS officers, 2001-2007

Year	Attacks	Murders <sup>27</sup>
2001/02	737	139
2002/03	906	150
2003/04	717	108
2004/05	721	94
2005/06	274	95
2006/07	769	108

Source: SAPS<sup>28</sup>

The SAPS have suggested that most police killings occurred during hot pursuit of suspects, or while making arrests, and that there is no

<sup>27</sup> Murders are a component of attacks.

<sup>28</sup> Cited in [www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA\\_Dir%20Sally\\_2006%202007%20financial%20year.pdf](http://www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA_Dir%20Sally_2006%202007%20financial%20year.pdf)

evidence that police officers are mainly killed for their guns.<sup>29</sup> However, as with other firearm-related violent crime the SAPS have not publicly revealed how many firearms its officers have had stolen from them annually as a result of murders and attacks. Yet the fact remains that police officers are regularly attacked and murdered, and it is probably that in at least some cases their firearms are stolen.

## **Section 5: Firearms diversion from the SANDF**

Like the SAPS, the FCA also requires South African National Defence Force (SANDF) personnel to obtain a firearm permit, which entails a competency certificate. However, as indicated in Section 3 above, SANDF personnel are exempted from this requirement 'while performing official duties under military command' and 'if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature and type of firearm they are authorised to carry' (Chapter 11, Section 98). Like all Official Institutions, the SANDF are required to maintain an accurate register of their firearm holdings.

Historically, South Africa's apartheid state, particularly the military (South African Defence Force, or SADF<sup>30</sup>) facilitated the transfer of arms and military equipment to a number of insurgent groups in Southern Africa, in particular the União Nacional para a Independência Total de Angola (UNITA) (in Angola) and Resistência Nacional Moçambique (RENAMO) (in Mozambique) (Seegers, 1996; Cawthra, 1986). Weapons diverted to these insurgent groups were allocated the same SADF administrative code as those earmarked for disposal. Further cryptic sub-categories were added by the SADF in the 1980s referring to weapons sent to Namibia and those sold to the South African police (Gould and Lamb, 2004: 157).

The SADF's records of the thousands of weapons it diverted to homeland defence forces (which were often commanded by SADF officers) and the Inkatha Freedom Party (IFP) were for the most part destroyed. The IFP was also supplied with weaponry by the SAPS, and used it to wage war against the ANC in KwaZulu-Natal, particularly in the late 1980s and early 1990s (Batchelor, 1998).

As indicated in Gould and Lamb (2004: 161-184), each homeland's firearm registers were incomplete and untrustworthy, and there is much evidence of substantial weapon diversions from their military

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<sup>29</sup> [www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA\\_Dir%20Sally\\_2006%202007%20financial%20year.pdf](http://www.info.gov.za/issues/crime/Crime%20Situation%20in%20SA_Dir%20Sally_2006%202007%20financial%20year.pdf)

<sup>30</sup> In 1994, following the all-race democratic election in 1994, the South African National Defence Force (SANDF) was created, the amalgamation of the SADF the liberation armed factions and the homeland militaries.

and police stockpiles. In addition, thousands of firearms from homeland defence forces were re-integrated into the SANDF stockpile after 1994, but to date the exact number of missing firearms from former homeland militaries has not established .

An audit in 2000 revealed that many weapons could not be accounted for, but in 2003, the SANDF indicated that 2,547 firearms had been lost or stolen since 1994 and 788 recovered, leaving a balance of 1,749. This relatively low number, however, did not include weapons still in possession of the SANDF commando units,<sup>31</sup> "donated" to neighbouring countries, or given to former homeland governments (Gould and Lamb, 2004: 161).

In a written answer to a parliamentary question from the DA in November 2005, Minister of Defence Mosiuoa Lekota stated that between 1 January, 2000 and 31 August 2005, 479 firearms were stolen or lost from the SANDF, and that during the same period 2,898 weapons were recovered, which Lekota attributed to the successful implementation of the FCA.<sup>32</sup>

The Auditor General's annual reports on the SANDF provide a less rosy picture. The 2006 Report of the Auditor General complained of the SANDF's 'lack of monitoring compliance with policies and procedures relating to stock and equipment' and also stated that 'stock takes were either not performed or certificates could not be provided at all units.' In addition, the audit found that firearm registers were not appropriately maintained (Auditor General, 2006, pages 97-99).

One problematic area the audit identified was the lack of policy and oversight of firearms and other SANDF equipment in foreign operations (such as in Burundi). In October 2006 the *Star* newspaper published a story in which it claimed that some SANDF weapons from its Burundi peace support operation had been acquired by the rebel Parti pour la libération du peuple Hutu-Forces nationales pour la libération (Palipehutu-FNL). The *Star* identified the missing SANDF arms in Burundi as 40 mortar bombs; 54 R-4 rifles; four R-5 rifles; a sniper rifle; two 12-gauge shotguns; eight machineguns; eight pistols; and 27 grenade launchers.<sup>33</sup>

The government's decision in 2006 to disband commando units presented the SANDF with a major firearms management challenge. These units had been struggling since 1994 to shake off their

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31 Commando units were units primarily consisting of civilian whites in rural areas, who received training in the SADF, were issued with firearms, and performed intelligence gathering, counter-insurgency, and fought crime.

32 Dr S. Van Dyk, *Internal Question Paper No:36-2005*, National Assembly, Cape Town, November 28<sup>th</sup>, 2007. (Supplied by Democratic Alliance).

33 'Burundi bungle leaves SANDF chiefs red-faced', *The Star*, October 31<sup>st</sup>, 2006.

apartheid-era associations, and remained mistrusted by the ANC, despite commando unit appeals to government that they were necessary to combat rural crime. The disbanding began in 2006 and final unit closures are scheduled for mid-2008. In 2003, the SANDF had already expressed concern about firearm management within commando units, indicating that it suspected that many of the R4 and R1 rifles that had been issued to them would prove, upon inspection, missing (Gould and Lamb, 2004, p. 160-161). The suspicion was well-founded. In early July 2007 *Die Burger* newspaper reported that of the 136 commando units closed by that stage, only 57 had all their weapons accounted for and their books closed. According to the report, in the Eastern Cape alone 146 commando unit R4 rifles and 50 R1 rifles were missing.

The issue was picked up by the DA, which described the SANDF's lack of control over commando firearms a 'disgrace' for 'allowing weapons to fall into the hands of unknown persons.'<sup>34</sup> The SANDF responded by indicating that the FCA has improved firearms management standards in the SANDF, enabling it better to control its stockpile and trace disappearances and losses.<sup>35</sup> This was also the perspective of the CFR, whose director reported that the SANDF is 'fully compliant' with the FCA.<sup>36</sup>

However, the official SANDF position has been challenged by Major General BS Mmono, the SANDF's head of legal services. In April 2007 Mmono wrote a brief for the military council expressing a range of concerns about firearms management. The brief, which was later leaked to *The Star*, alleged that the SANDF had no system in place by which it can immediately report thefts and losses of arms and ammunition to the police; the SANDF lacked a register for the particulars of all firearms less than 20mm; and there was no system in place to deal with SANDF members who are declared unfit to possess a firearm by a military court.

In Mmono's view, existing SANDF policy and procedure for the control of firearms and ammunition still required review by 'relevant role players' to bring them into line with the FCA. Mmono also wrote of his concern that the SANDF could be faced with civil lawsuits from members of the public injured or killed by firearms in the hands of unfit soldiers.<sup>37</sup> The concerns and criticisms appear to have been taken into consideration by the Department of Defence (DOD). In the Report of the Accounting Officer (dated 31 August 2007), which is included in the DOD's 2006/07 Annual Report, the concerns of the Auditor-General

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34 Democratic Alliance media release, "*Lack of weapons control a disgrace*", July 20<sup>th</sup>, 2007.

35 'Report slams SANDF for losing track of weapons', *Cape Times*, July 20<sup>th</sup>, 2007.

36 Telephone interview with Jaco Bothma, Central Firearms Registry director, 21 September 2007.

37 'Report slams SANDF for losing track of weapons', *Cape Times*, July 20<sup>th</sup>, 2007.

are presented in junction with the DOD's proposed remedial action with respect to asset management. For example: "asset management" units and teams have been established; and reform measures and milestones are in the process of being implemented to convert the current SANDF asset management system to a system that is prescribed by the National Treasury (DOD, 2007: 181-188).

These developments and claims are testimony to the mainstreaming and effectiveness of the FCA for Official Institutions like the SANDF, since each of Mmono's main concerns about SANDF weapons management relates to a specified FCA requirement of Official Institutions. This shows that the FCA has created an institutional dynamic towards weapons management reform within the SANDF, because Mmono expressed his concerns in his capacity as a legal officer, worried that his commander-in-chief could be prosecuted in court because of existing SANDF practice concerning its weapons stockpile. However, less political spin and more honesty by Official Institutions will further enhance firearms control in South Africa. Firearm management reform in the SANDF is clearly in the national interest, and it should not just be up to the Auditor General and the roulette of leaked internal documents to keep the public informed about how the process is going.

## **Section 6: Other state firearms diversions**

The Department of Correctional Services (prisons) possess firearm holdings, and have the same obligations as the SAPS under the FCA in terms firearm permits, testing, record-keeping, and safe-keeping. Firearms and armaments held by the Department of Correctional Services were valued at R2.95m in 2006, according to the Correctional Services 2006 Annual Report.

In the Auditor General's section of this annual report, no specific mention is made of deficiencies in weapons management. However, the Auditor General did observe in general terms that there was 'insufficient capturing of assets... which resulted in the fixed asset register not being adequately maintained or updated'. The Auditor General noted a number of problems, including the fact that Correctional Services has been using three different computer programmes to manage its inventory and fixed assets, but that no reconciliation had been performed between the three systems. The Auditor General discovered that a large number of purchased assets which showed up on one of the systems did not show up on another. Because of the confusion, the Auditor General stated that he was "unable to verify the accuracy and completeness of the asset register". This judgement includes the Correctional Services armoury, and on implies that the department is not yet fully FCA-compliant, since a

core requirement of the FCA for official institutions like Correctional Services is that they main accurate weapons registers. The Auditor General noted in the 2006 Annual Report that Correctional Services management had undertaken “to introduce manual reconciliation procedures to overcome the interface problems for the following year” (Correctional Services, 2006). This will have been a huge and daunting operation; it remains to be seen to what extent it was indeed carried out.

In answer to a written question from the DA in the National Assembly in 2005, the minister for Safety and Security revealed that South African municipalities owned 15,843 registered firearms. The minister continued that under the terms of the FCA, municipalities had to apply for accreditation to possess firearms, and that the firearm safe facilities that municipalities made use of had to comply with the requirements of the South African Bureau of Standards. The minister said municipalities could not receive firearms accreditation until their safes had been inspected to ensure they did indeed comply with this standard. The minister said that according to the records of the CFR, 1,945 municipality firearms had been reported lost or stolen since 1993, giving an average annual firearms loss for municipalities of 163.<sup>38</sup> This is a low number compared to the number of firearms lost or stolen in South Africa overall, but it still means that municipalities have been losing 1% of their licensed firearms per annum, a worryingly high percentage which raises the question of whether municipalities are as FCA-compliant as they are made out to be.

From the analysis of the implementation of firearms control legislation in South Africa there appears to be some inconsistency in the enforcement of FCA regulations on Official Institutions. While firm action is taken against private civilians who fail to adhere to FCA requirements and regulations, virtually no punitive action appears to have taken against police and other official violations. This imbalance in enforcement threatens to undermine public trust and confidence, and could create a political backlash. Indeed, the political opposition has been quick to highlight what it sees as a double standard.

## **Section 7: Firearm destruction**

In order to reduce the potential for firearms diversion (and increases in firearm violence and crime), the South African security forces, particularly SAPS, have actively sought to destroy surplus, obsolete and confiscated firearms. Table 7 below provides details on the

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38 R. Jankielsohn, *Internal Question Paper No 7/25*, National Assembly, Cape Town, 2005 (Supplie by Democratic Alliance).

number of firearms that SAPS have destroyed since 2000.

To date, SAPS has destroyed in excess of half a million firearms since 2000. The marked increase in firearms destruction from 2003 was primarily due the rolling out of the FCA. The approximately 100% increase in firearm destructions between 2005 and 2006 can be mainly attributed to the firearm amnesty process that was undertaken in 2005 (see Section 2).

Table 7: Firearms destroyed by SAPS: 2000-2007

Year	Number of firearms destroyed
2000	12416
2001	16223
2002	26768
2003	72158
2004	79657
2005	88114
2006	161049
2007	74592
<b>Total</b>	<b>530977</b>

Source: SAPS: CFR

## **Conclusion**

The vast majority of licensed firearms in South Africa are in private civilian hands. Available data indicates that most lost or stolen firearms in South Africa originate from private civilians. Hence, given this state of affairs, it appears that the South African government in its bid to stem the flow of weapons from licensed to unlicensed hands has logically prioritised legislative and administrative efforts to improve the regulation of private civilian firearm ownership. There is some indication that these developments have contributed to reductions in firearm loss and theft from private citizens, as well as in firearm homicide.

The South African government has also taken steps to enhance firearm controls within state institutions, especially the police and the military. Despite this, evidence suggests that further improvements, especially administrative measures, are required to enhance firearms control within these institutions.

Further investigation of firearm diversion in South Africa is required in order to institute more targeted measures to this problem. However, this is not possible in the absence of publicly-available, detailed, and timely information on the nature of firearm crime and violence in South Africa.

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