



Western Cape
Government

Community Safety

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Community Safety
Improvement Partnership



The Effect of Firearm Legislation on Crime: Western Cape
Department of Community Safety – 2014/15

A Note from the Department of Community Safety

The Western Cape Provincial Department of Community Safety's mandate is do civilian oversight over the police as per the Republic of South Africa Constitution. The Department is guided by the Civilian Secretariat of Police Act, 2 of 2011 and the Western Cape Community Safety Act, 3 of 2013. The sub-programme, Policy and Research within the Programme: Provincial Secretariat for Safety and Security conducts research and publishes reports with the aim of contributing to increasing safety, wellness and reducing social ills in the province.

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1. INTRODUCTION

This study reviews the effects of the Firearms Control Act (No. 60 of 2000) on crimes in South Africa, with specific reference to the Western Cape. South Africa now has a comprehensive firearms-control regulatory regime in place in the form of the Firearms Control Act and the subordinate Firearms Control Regulations (FCA Regulations) which were fully brought into effect over a decade ago, in 2004.¹

Prior to 2004, the licencing and possession of firearms was regulated through the Arms and Ammunition Act (No. 75 of 1969). This Act did not have sufficient controls over the ownership and licencing of firearms and once issued a license was valid until it was withdrawn.² There were no stringent substantive or procedural limits to obtaining and owning a firearm. Consequently, relatively few license applications were rejected. The ineffectiveness of the Arms and Ammunition Act in regulating the issuing of firearms was evident in the number of cases that went to court due to the abuse and misuse of firearms by ordinary gun owners. In the 2003 case of the *Minister of Safety and Security v Hamilton*,³ the Supreme Court of Appeal held that the police owed members of the public a legal duty to exercise reasonable care in considering, investigating, recommending, and granting a firearm license. The court held that SAPS should thus take reasonable care to ensure that a person is competent and fit to possess a firearm before issuing a license.

In the early 1990s the high incidence of firearm deaths and injuries in South Africa gave rise to vigorous campaigns by civil society organisations for stricter firearms control. The argument for stricter control of firearms is based on an assumption that better regulation and restriction of firearm ownership would lead to a reduction of gun-related violence.⁴ Evidence based studies have begun to support this argument. Recently, a study in Australia found that the gun-control law did substantially reduce the rates of armed robbery and attempted murder.⁵

International studies based on data from countries in the developed world have demonstrated a link between firearm ownership and homicide and other forms of violence.⁶ A cross-country study by Van Kesteren also found that there is a positive link between ownership of handguns and risk of victimisation of serious violence crimes.⁷ South African research based on an analysis of police dockets has also found that gun owners are four

¹ There was a delay in the implementation of the Act so as to afford the South African Police Service (SAPS) as the implementing Agency to put the necessary systems and processes in place. However, there were some initiatives which anticipated its implementation, such as the drive for Gun Free Zones in 27 schools across five provinces and the pilot implementation of S 140 of the Act. See Keegan, M. (2003). 'Igun iflop': *Gun Free South Africa work with youth in schools*. Johannesburg: Gun Free South Africa.

² SAPS presentation to the Portfolio Committee on Safety and Security. (15 February 2000). *Firearms Control Draft Bill: Briefing*, available online on <https://pmg.org.za/committee-meeting/4076/>, accessed 10 July 2015.

³ *Minister of Safety and Security v Hamilton* (457/2002) [2003] ZASCA 98; [2003] 4 All SA 117 (SCA) (26 September 2003).

⁴ Gun Free South Africa. (2015). *Firearms Control Briefing: Gun Control and Crime Control*.

⁵ Taylor, B. and Li, J. (2015). 'Do Fewer guns Lead to Less Crime? Evidence from Australia.' *International Review of Law and Economics*.

⁶ See for example the studies cited in Van Kesteren, J. N. (2014). 'Revisiting the Gun Ownership and Violence Link: A multilevel Analysis of Victimization Survey Data.' *British Journal of Criminology* (54), pp. 53-72, at pp 54-56.

⁷ Van Kesteren, J. N. (2014). 'Revisiting the Gun Ownership and Violence Link: A multilevel Analysis of Victimization Survey Data.' *British Journal of Criminology* (54), pp. 53-72.

times more likely to have their own gun used against them than to have used it for self-defence.⁸

The civil society 'gun-free' campaign led to a 24-hour amnesty on the voluntary handing in of weapons on 16 December 1994.⁹ A total of 900 firearms and explosives were handed in across the country.¹⁰ This and other initiatives prompted a law reform process led by national government towards stricter firearms control. This policy reform process culminated in the new Firearms Control Act (FCA) to replace the ineffective and out-dated Arms and Ammunition Act.

The intention of the FCA was to address firearm-related crime through reducing the proliferation of illegally possessed firearms, removing them from society and improving control over those firearms which are in legal possession.¹¹ The Act also provides for the use, transfer, possession and safe storage, of legal firearms. It aims to establish a comprehensive and effective system of firearms control and management, and to ensure the monitoring and enforcement of the legislation.¹²

This paper forms part of a national study undertaken by the Civilian Secretariat of Police wherein each province was required to conduct research on the implementation of the FCA and to review police dockets of gun-created crimes since before the full implementation of the Act – from 1999 to 2014.

This paper discusses the extent of firearm violence in South Africa. It then reviews the administration of the Central Firearms Registry and the issuing and renewal of firearm licenses. Section four examines the extent of firearm violence in the Western Cape, particularly in areas with the highest number of murders. Sections five to eight deals with the docket study conducted as part of the review for the Civilian Secretariat for Police, including the interviews held with Designated Firearms Officials at each police station in the four police stations forming part of the study. Finally the paper sets out its conclusions and recommendations regarding the management of firearms in the Western Cape.

2. EXTENT OF FIREARM VIOLENCE IN SOUTH AFRICA

The high level of violent crime has long been a concern in South Africa, and continued to be so in the period leading up to the passing of the FCA. In the 1998/1999 year, the number of

⁸ Altbeker, A. et al. (2000). *Are South Africans Responsible Firearm Owners? Evidence from 1,000 Dockets*. Johannesburg: GFSA.

⁹ Gun Free South Africa Website, <http://www.gfsa.org.za/about-us/history/>, accessed 8 May 2015.

¹⁰ Kirsten, A. (2005). *The Role of Social Movements in Gun Control: An international comparison between South Africa, Brazil and Australia*. Centre for Civil Society Research. Report No. 21, p.4. Available on <http://www.issafrica.org/armsnetfrica/sites/default/files/kirsten%20B.pdf>, accessed 8 May 2015.

¹¹ Firearms Control Act (No 60 of 2000).

¹² Section 2 of the Firearms Control Act (No 60 of 2000).

murders committed was 25 129.¹³ In the period from the late 1990s to the mid-2000s, firearms were a leading cause of all non-natural deaths in South Africa. A 1999 study of mortuary data by the National Injury Mortality Surveillance System (NIMSS) of the Medical Research Council (MRC) and the University of South Africa (UNISA) found that overall, firearms accounted for 26.3% of non-natural deaths in Cape Town alone.¹⁴ In 2003, gunshot injuries accounted for 53% of male and 41% of female homicides in the country.¹⁵

The number of murders in the country has declined since the highs of 1998/1999. A study by Matzopoulos and others have argued that a key factor in the decline of homicides has been the stricter gun control laws introduced by the Firearms Control Act. Their study, looking at homicides in 5 cities over the period 2001 to 2005 argued that the decline in the homicide rate was driven by a decline in gun-related homicides.¹⁶ Since then, other studies have also shown a decrease in gun related homicides. Research by the MRC found a decrease in intimate and non-intimate partner homicide of females as a result of gunshot injuries between 1999 and 2009, a fact that is largely attributed to the firearm legislation.¹⁷

The 2008 Report of the National Injury Mortality Surveillance System (NIMSS) revealed that firearm related injuries accounted for 20% of violent deaths.¹⁸ In 2009, a study of post-mortem findings in 8 provinces found that firearm injuries were still a leading cause of injury related deaths. Firearm injuries were also responsible for unintentional deaths and deaths whose cause was undetermined.¹⁹ However, the study estimated that homicides involving firearms in metro areas accounted for 38.5% of homicides compared with 44% in 2005, indicating a decline in the percentage of deaths caused by gunshot injuries. The authors also argue 'that homicide involving firearms has declined more rapidly than homicide by other means, at least in urban areas.'²⁰ Again, the decline in these firearm related homicides is attributed to the implementation of the FCA. Matzopolous et al argue that it is the decline in gunshot related homicides that accounts for the decline in murders, since there has been a mode

¹³ South African Police Service, Crime Information Analysis Centre (CIAC), Crime Statistics.

¹⁴ See Medical Research Council and UNISA. (2000). *National Injury Mortality Surveillance System, A Profile of Fatal Injuries in South Africa 1999*. Johannesburg: Medical Research Council and UNISA.

¹⁵ Harris, C., Sukhai, A., Matzopoulos, R. (2003). 'National fatal injury profile'. In: Matzopoulos R, ed. *A Profile of Fatal Injuries in South Africa: Fifth Annual Report of the National Injury Mortality Surveillance System, 2003*. Cape Town, South Africa: Crime, Violence and Injury Lead Programme, Medical Research Council/University of South Africa; 2004, cited in Matzopoulos, R., Thompson, M., and Myers, J. (2014). 'Firearm and Non-firearm Homicide in 5 South African Cities: A Retrospective Population-Based Study', *American Journal of Public Health*, 104(3), p. 445.

¹⁶ Matzopoulos, R., Thompson, M., and Myers, J. (2014). 'Firearm and Non-firearm Homicide in 5 South African Cities: A Retrospective Population-Based Study', *American Journal of Public Health*, 104(3).

¹⁷ Abrahams, N., Mathews, S., Martin, L.J., Lombard, C., Jewkes, R. (2013). 'Intimate Partner Femicide in South Africa in 1999 and 2009'. *PLoS Medicine* 10(4): e1001412. doi:10.1371/journal.pmed.1001412

¹⁸ MRC- UNISA. (2009). *A profile of fatal injuries in South Africa, 2008. Annual Report for South Africa based on the National Injury Mortality Surveillance System (NIMSS)*. MRC-UNISA, Crime, Violence and Injury Lead Programme.

¹⁹ Matzopoulos, R. et al. (2015). 'Injury-related mortality in South Africa: a retrospective descriptive study of post-mortem investigations'. *Bull World Health Organisation*. Published online: 13 March 2015. 93: 303–313 <http://dx.doi.org/10.2471/BLT.14.145771>

²⁰ Matzopoulos, R., Prinsloo, M., Pillay-van Wyk, V., Gwebushe, N., Mathews, S., Martin, L., Laubscher, R., Abrahams, M., Msemburi, W., Lombard, L., & Bradshaw, D. (2015). 'Injury-related mortality in South Africa: a retrospective descriptive study of post-mortem investigations', *Bull World Health Organ* 2015 (93), pp.303–313, at p. 310.

modest decline in murder by sharp force injury or blunt force injury and homicide by other means.²¹

The latest injury data for the Western Cape indicates that in 2010, firearm injuries accounted for 23% of homicide deaths and 11% of suicide deaths (in total 590 deaths) in the Western Cape.²²

Mortality studies report on those who have been killed or who died as a result of gunshots. However, victim surveys can reflect on the use of firearms in other crimes. The 2011 Victims of Crime Survey found that 20.5% of murder victims (or their families) reported that a gun had been used in the commission of the offence, compared with 54.1% who reported that a knife had been used. Firearms were most likely to have been used in car hi-jacking crimes (91.2%), but were also used in house robberies (23.6%), other robberies (23.8%), sexual assault (24.8%), and to a lesser extent, in assault cases (4.9%).²³ Unfortunately, the previous and subsequent victim surveys did not report on the extent to which guns were used in crime, so an increase or decrease in the use of guns in these crimes cannot be determined from this survey.

Changes in the firearm legislation may not be the only factor contributing to the decline in homicide numbers. The Centre for the Study of Violence and Reconciliation (CSVr) revealed that in recent years South Africa has been characterised by high levels of violent crime particularly murder despite the decline of crime in the country experienced in the 1990s.²⁴ There is a tapestry of factors that could account for the high levels of violence in our country.²⁵ There are a number of factors impacting on the decline in homicide and other violent crimes over the last ten years: this could include greater awareness and civil society interventions around crime reduction; changes or more effective policing operations; and a more stable socio-political and economic climate. The impact of these and other factors needs further exploration.

Murder rates continued to decline since 1995, to its lowest point of 15 606 in 2011/2012, but have since increased.²⁶

The following section will examine the trends in the issuing and renewal of firearm licenses.

²¹ Ibid.

²² Western Cape Government. (2010). *Provincial Injury Mortality Surveillance System: Injury Mortality Report, Western Cape, 2010*. Medical Research Council, Burden of Diseases Research Unit, University of Cape Town, University of Stellenbosch.

²³ Statistics South Africa. (2012). *Victims of Crime Survey: Reference period January to December 2011*, p. 57.

²⁴ Centre for the Study of Violence and Reconciliation. (2008). *Streets of pain, streets of sorrow: The circumstances of the occurrence of murder in six areas with high murder rates*. Johannesburg: CSVr, available online on

<http://www.csvr.org.za/index.php/component/content/article/1507-streets-of-pain-streets-of-sorrow-the-circumstances-of-the-occurrence-of-murder-in-six-areas-with-high-rates-of-murder.html>, accessed on 23 February 2015; Department of Community Safety. (2012). *Shadow Report on Safety Information: Murders in the Western Cape, A case study*. Cape Town: Western Cape Government.

²⁵ See for instance, Centre for the Study of Violence and Reconciliation. (2009). *Why does South Africa have such high rates of violent crime: A supplement to the final report on the study of the violent nature of crime in South Africa*. Available online on http://www.csvr.org.za/docs/study/7.unique_about_SA.pdf, accessed 10 July 2015.

²⁶ SAPS. Crime Statistics.

3. FIREARM PROCESSING AND ADMINISTRATION

Under the FCA, a person must apply for a competency certificate to possess a firearm, to trade, manufacture in firearms or to conduct a business as a gunsmith. All applicants must be over the age of 21 years, and must be a South African citizen or holder of a South African residence permit. In addition, they must be a fit and proper person to possess a firearm, be of stable mental constitution and not inclined to violence, and not be dependent on any substance with narcotic or intoxicating effect. The person must not have been convicted of an offence relating to the unlawful possession or handling of a firearm. The FCA also precludes the issuing of a certificate in the case of a conviction for sexual offences and violent crimes under defined circumstances (S 9(2)). In terms of the Act, the competency certificate lapses after 5 years and must be renewed (S 10(2)). Once a competency certificate has been issued, the applicant must then apply for a firearm license. The Firearms Registrar must issue the competency certificate, license, permit or authorisation in terms of S 6 of the Act.

In 1999, there were 4, 5 million licensed firearm holders.²⁷ Prior to the implementation of the Firearms Control Act, up to 11 000 licenses were approved per month. Since the Act came into effect on 1 July 2004, the number of approved applications for new firearm licenses initially reduced significantly.²⁸

Between 1999 and 2015, 831 629 individual firearm licenses were issued. From 2009/2010, the number of firearms licenses issued increased significantly. Only 3 762 firearm licenses were issued in 2005/2006. In 2011/2012 more than 79 000 new licenses were issued (Figure 1), still far fewer than the numbers issued before the Act came into effect. The increase in the number of licenses issued from 2010 can be attributed to the pressure placed on the SAPS to reduce the large backlog in issuing and renewing of licenses.²⁹

The 2013/2014 Victims of Crime Survey indicates that since 2011, there is a slight increase in the number of households who report carrying firearms in order to protect themselves. In 2011, 4.6% of households reported carrying firearms, and this increased to 5.2% 2012/2013. In the Western Cape 5.4% of households carried weapons in 2013,³⁰ slightly higher than the national average. These figures reflect the increase in the number of firearms issued since 2011.

²⁷ SAPS presentation to the Portfolio Committee on Safety and Security. (15 February 2000). *Firearms Control Draft Bill: Briefing*, available online on <https://pmg.org.za/committee-meeting/4076/>, accessed 10 July 2015.

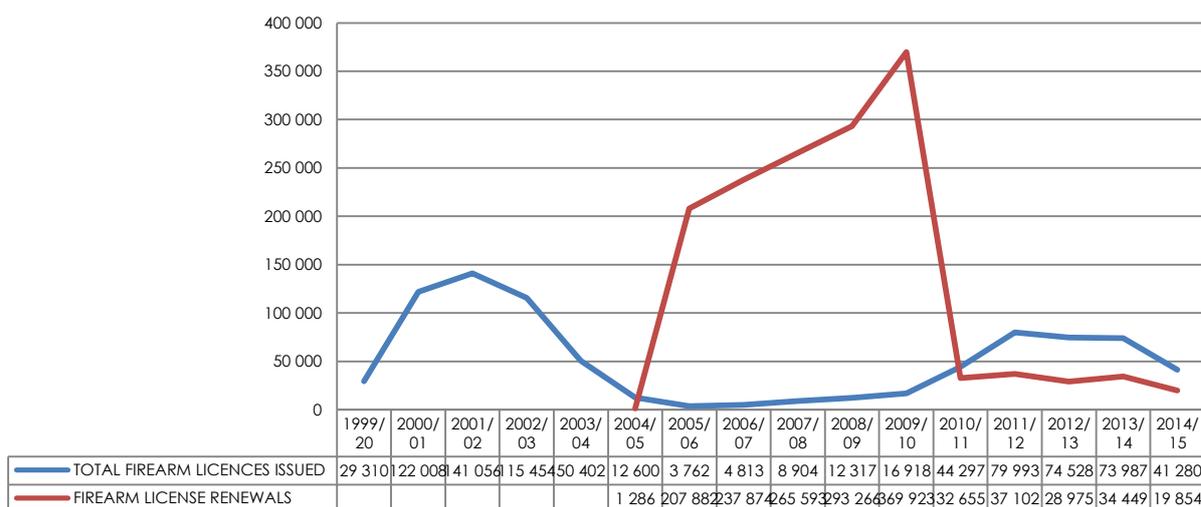
²⁸ Shung-King, M., Proudlock, P. & Michelson, L. (2005). *From Fieldwork to Facts to Firearms Control Research and Advocacy towards Firearm Control Legislation in South Africa: A case study* Children's Institute, University of Cape Town.

²⁹ Gun Free South Africa. (2015). *Firearms Control Briefing: Assessing the Functioning of the Central Firearms Registry*. Presentation to the Portfolio Committee on Police on 3 June 2015, available online on <https://pmg.org.za/committee-meeting/21014/>, accessed 4 August 2015.

³⁰ Statistics South Africa. (2014). *Public perceptions about crime prevention and the Criminal Justice System: In-depth analysis of victims of crime survey data, 2010 – 2013/2014*. Pretoria: Statistics South Africa, p. 33.

Under the previous Arms and Ammunition Act (1969), a firearm license was issued for life. Under the FCA, a license holder must apply for the license to be renewed in order to demonstrate that there is still a need for the license, that the person is still a fit and proper person, and to ensure that the person is still accountable for the firearm.³¹ A license must be renewed every two to ten years, depending on the nature of the license (S 27). Figure 1, below shows the trend of firearms licenses issued and renewed per financial year.

Figure 1: Total number of firearm licenses issued and renewed per financial year³²



The FCA provided that any license issued under the previous legislation remained valid for five years after the date of the implementation of the new Act (S 1 of Schedule 1), unless it was the license was renewed, cancelled or surrendered.³³ The spike in the license renewals between 2005 and 2009 could be attributed to delayed reaction on the part of firearm owners to renew their licenses. Figure 1, above shows a spike that coincides with this period and the final phase for renewal was the end of March 2009.³⁴

Since the implementation of the Act, the Central Firearms Registry (CFR) has received 1 528 859 applications for license renewals, the majority of which (89.9%) were applied for in the five year period between 2005 and 2010, as can be seen in Figure 1.

Table 1 indicates that the bulk of renewal applications (52%) were for the purposes of self defence of which 47% were issued. Of all the 1 528 859 renewal applications, 87.5% were issued. Only 4.4% of applications were refused, while 6.5% were cancelled.

³¹ Gun Free South Africa. (24 March 2015). *Firearms Control Briefing*. Submission to the Portfolio Committee on Police at the Firearms Summit, available online on <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150324firearms.pdf>.

³² Source: Central Firearms Registry, received on 3 June 2015 from the National Civilian Secretariat for Police.

³³ Firearm license holders had the period 01 January 2005 to 31 March 2009 to register. Birth dates were the criteria used to streamline the firearm renewal process. Those whose birth dates were between 01 January to 31 March had to renew their licenses in 2005 while those who had their birth dates between 01 October to 31 December had to renew their licenses between 01 January 2008 and 30 March 2009. The SAPS allowed an extended this period to 30th June 2009 for firearm license renewal. See: <http://www.wingshooters.co.za/licence/SAPSrenewals> accessed on 03 August 2015; and <http://www.sanews.gov.za/south-africa/firearm-owners-urged-renew-licences> accessed on 03 August 2015.

³⁴ Ibid.

Table 1: Total firearm license renewals per category by status from 2000 - Oct 2014³⁵

CATEGORY	ISSUED	REFUSED	CANCELLED	OUTSTANDING
Self defence	719 374	26 772	34 539	10 478
Occasional hunting and sports-shooting	458 136	27 731	14 378	2 833
Dedicated hunting and sports-shooting	108 902	2 883	2 951	503
Private collection	19 548	776	1 718	277
Public collection	15	5	5	0
Business purposes	31 864	6 187	14 070	2 970
Other	414	3 440	31 747	6 343
TOTAL	1 338 253	67 794	99 408	23 404

The FCA requires the National Police Commissioner of the Police (or Registrar) to establish a Central Firearm Registry (CFR), which is now housed under SAPS Visible Policing: the Firearm, Liquor and Second Hand Goods Control Division (also known as the FLASH Division). The Registrar is responsible for establishing and maintaining a Central Firearms Register, and to monitor the implementation of the Act. Concerns have been raised regarding the CFR computer system which was perceived not to be running adequately.³⁶ At a briefing before the Parliamentary Portfolio Committee on Police in 2014, the SAPS acknowledged a number of difficulties with the system. These included a shortage of staff, shortage of storage space for the large volume of paperwork which could not be filed and archived properly, and difficulty in processing applications within the 90 day time frame,³⁷ and a large backlog of license applications.

Various stakeholders have raised concerns with the CFR, which have included allegations of police corruption at senior levels and convictions of SAPS FLASH officials.³⁸ This led SAPS to establish a commission of inquiry into the CFR in 2013, and a number of criminal investigations were initiated against SAPS officials for the corrupt fast tracking and issuing of licenses.³⁹ In 2015, charges were brought against several members, including senior members of SAPS who allegedly fraudulently issued firearm licenses to gangsters and drug dealers in the Western Cape.⁴⁰ It was alleged that firearms and ammunition from a FLASH unit in Gauteng, some of which were allegedly destroyed by the police, found their way into the hands of Western

³⁵ Source: Central Firearms Registry, received on 3 June 2015 from the Civilian Secretariat for Police.

³⁶ See Geach, T. (Friday August 29 2014). 'Great gun debate: risk versus safety'. *IOL media*, available online on <http://www.iol.co.za/news/south-africa/western-cape/great-gun-debate-risk-versus-safety-1.1743061>.

³⁷ Portfolio Committee on Police. (20 August 2014). *Central Firearms Register presentation, Firearms Management*. Department of Police. Available online on <https://pmg.org.za/committee-meeting/17390/>, accessed 3 June 2015.

³⁸ See for instance SouthAfrica.info. (15 July 2013). 'SA suspends two firearms officials', available online on <http://www.southafrica.info/news/corruption-150713.htm>, accessed 3 June 2015.

³⁹ South African Government News Agency. (12 July 2013). 'Probe underway into Central Firearm Registry Unit', available online on <http://www.sanews.gov.za/south-africa/probe-underway-central-firearm-registry-unit>, accessed 12 July 2015.

⁴⁰ Dolley, C. (11 July 2015). 'Ex-cop "fuelled gang wars" raging in Cape', *Weekend Argus*.

Cape gangsters.⁴¹ However, the findings and recommendations of the commission of inquiry have not been made public.⁴²

Many of these problems persisted and the CFR again adopted a turnaround strategy in 2014. As a result of their interventions, some of these problems are being addressed, and they reported that in 2014/2015 94% of firearm license applications and renewals were finalised within the time frame.⁴³ However, the report of the Auditor-General could not verify 54% of the firearm applications as the application forms were not readily available, due to inefficient systems of record keeping.⁴⁴

Although a company was appointed in 2003 to develop an IT system to create an electronic central firearms database to enable the CFR to track firearms and identify the ownership and history of a firearm, this process has not been completed.⁴⁵

The Designated Firearms Officers (DFOs) stationed at police station level are required to accept an application for a firearm license and conduct inspections to verify information. According to the SAPS, there were delays in conducting the inspections as applicants and next of kin were not always available, the DFOs were often not available to conduct the inspections, and there were delays in forwarding the paper work to the provincial offices and the CFR.⁴⁶

The SAPS also reported that there was shortage of personnel to conduct compliance inspections of dealers and manufacturers. It was also revealed that there was lack of personnel, material resources and lack of training at the police station level. In this regard, the SAPS reported that it intends increasing the DFOs capacity by training Public Service Act (PSA) members to conduct administrative functions in the DFO environment in order to address administrative capacity challenges of the DFOs.⁴⁷ However, it is not clear what improvement was brought forward owing to the recommendations of the Portfolio Committee on Police. There is a need for a study on the effectiveness of the CFR to support the Firearms Control Act.

⁴¹ Serrao, A. (12 March 2015). 'Cops, guns linked to gangs'. IOL media, available online on <http://www.iol.co.za/news/crime-courts/cop-guns-linked-to-gangsters-1.1835604>, accessed 12 July 2015.

⁴² Gun Free South Africa. (2015). *Firearms Control Briefing: Assessing the Functioning of the Central Firearms Registry*. Presentation to the Portfolio Committee on Police on 3 June 2015, available online on <https://pmg.org.za/committee-meeting/21014/>, accessed 4 August 2015.

⁴³ SAPS, Division Visible Policing. (3 June 2015). *Presentation to the Portfolio Committee on Police: Central Firearms Register Action Plan: Progress Report*. Available online on <http://pmg-assets.s3-website-eu-west-1.amazonaws.com/150603CFR.pdf>, accessed 4 August 2015.

⁴⁴ South African Police Service. (2014). *Annual Report for the 2013/2014 Financial Year – Vote 25: Department of Police*, p. 278.

⁴⁵ Knoetze, D. (17 October 2014). 'R400 million firearms control system in shambles'. *Ground Up*. Available online on http://groundup.org.za/article/r400-million-firearms-control-system-shambles_2359, accessed 4 August 2015.

⁴⁶ Ibid.

⁴⁷ See SAPS (2013/14-2014/15) presentation to the NCOP 'Central Firearm Register Plan of Action' Department of Police: Pretoria

3.1 STOLEN AND MISSING FIREARMS IN SOUTH AFRICA

Between 1999 and 2014, 204 115 firearms were reported as lost or stolen, an average of 35 firearms per day, a yearly average of 12 757.⁴⁸ The number of firearms reported lost and stolen have declined since the advent of the FCA, possibly in line with the decline of the issuing of new licenses. Kirsten, an advocate of gun control, argues that figures for firearm losses are known to be an understatement, as many people do not report firearm theft or losses for fear of prosecution.⁴⁹ According to Kirsten, guns are lost or stolen from legal owners such as individuals and private companies, including security companies. There are also losses or theft from government departments and state officials such as the Police, Military and Correctional Services. CFR data indicates that between 1999 and 2015, 15 357 (7.5% of total firearms lost) were lost from the SAPS, and 18 697 (9.1%) from other government departments, and 18 739 (9.1%) from security services. The majority of firearms were lost or stolen from individuals (139 765 or 68%).⁵⁰

In addition to the firearms reported as lost or stolen to the police, there are others which are not reported, as well as firearms which were lost while in the illegal possession of their owners. This includes firearms obtained through cross border trade involving firearm dealers.⁵¹

While 204 115 firearms were reported lost or stolen during this period, it is reported that 185 640 were recovered (90.9%). SAPS estimates that it will recover 85% of reported stolen/lost firearms in 2015/16, 86% in 2016/17 and 87% in 2017/18 financial year.⁵² With regard to state owned firearms, SAPS targets recovering 24% reported stolen/lost firearms in 2015/16, 25% in 2016/17 and 26% in 2017/18.⁵³ This appears to be in accordance with the record for recovery of lost or stolen firearms. It is not clear whether the weapons reported as 'found' are those that were reported stolen or lost, or whether they form part of a pool of 'illegal' undocumented firearms.

3.2. FIREARM AMNESTIES

In order to help with the regulation of firearms and to deal with the large number of illicit or illegal firearms, several firearm amnesties have been declared. The first amnesty was in 1994, when to mark South Africa's transition to democracy, 900 firearms were handed in during a

⁴⁸ Central Firearms Registry, received on 3 June 2015 from the National Civilian Secretariat for Police.

⁴⁹ Geach, C. (29 August 2014). 'Great gun debate: risk versus safety', IOL, available online on <http://www.iol.co.za/news/south-africa/western-cape/great-gun-debate-risk-versus-safety-1.1743061>, accessed 10 June 2015.

⁵⁰ Source: National Firearms Registry, received on 3 June 2015 from the Civilian Secretariat for Police.

⁵¹ Geach, C. (29 August 2014). 'Great gun debate: risk versus safety', IOL, available online on <http://www.iol.co.za/news/south-africa/western-cape/great-gun-debate-risk-versus-safety-1.1743061>, accessed 10 June 2015.

⁵² See SAPS. (2014). *Annual Performance Plan 2014/2015 for the South African Police Service*, p. 21. It should be noted that the figures reported for those lost and recovered for the 2011/2012 – 2013/2014 are different from the figures provided by the Central Firearms Registry.

⁵³ See SAPS. (2014). *Annual Performance Plan 2014/2015 for the South African Police Service*, p. 22.

24 hour period.⁵⁴ A much larger amnesty was declared in 2005, when 100 006 firearms were handed over, of which more than half were illegal weapons.

Table 2: Firearms lost, stolen and recovered across all categories⁵⁵

FINANCIAL YEAR	LOST	STOLEN	LOST + STOLEN = TOTAL	FOUND
1999/2000	18	5 134	5 152	3 265
2000/2001	67	18 956	19 023	10 567
2001/2002	41	20 333	20 374	14 250
2002/2003	85	18 761	18 846	15 271
2003/2004	536	18 357	18 893	21 302
2004/2005	907	14 404	15 311	18 392
2005/2006	787	13 919	14 706	11 243
2006/2007	697	13 233	13 930	13 185
2007/2008	923	11 467	12 390	12 929
2008/2009	1 088	11 808	12 896	13 991
2009/2010	1 151	10 658	11 809	7 331
2010/2011	1 030	8 358	9 388	7 931
2011/2012	736	8 348	9 084	9 863
2012/2013	794	9 167	9 961	12 657
2013/2014	495	8 084	8 579	10 672
2014/2015	320	3 453	3 773	2 791
TOTAL	9 675	194 440	204 115	185 640

The bulk of them came from the Western Cape, Gauteng and KwaZulu-Natal.⁵⁶ A second amnesty was declared in 2010, when over 32 169 firearms were handed over to the police. Of this number, 27% were illegal firearms.⁵⁷

4. FIREARM VIOLENCE IN THE WESTERN CAPE

The number of murders in the Western Cape has continued to increase by 8.54% since 2004. At its lowest point in 2009, these figures gradually increased, and by 2013/2014 peaked at 2 909 (an increase of 12.8% from the previous financial year).⁵⁸ The increase of murders in the Western Cape mirrors the increase in the national murder figure, though at a higher rate of increase than the national year on year increase of 4% since 2011/2012.

⁵⁴ Kirsten, A. (2007). *Simpler, Better, Faster: Review of the 2005 Firearms Amnesty*. ISS Paper 134, March.

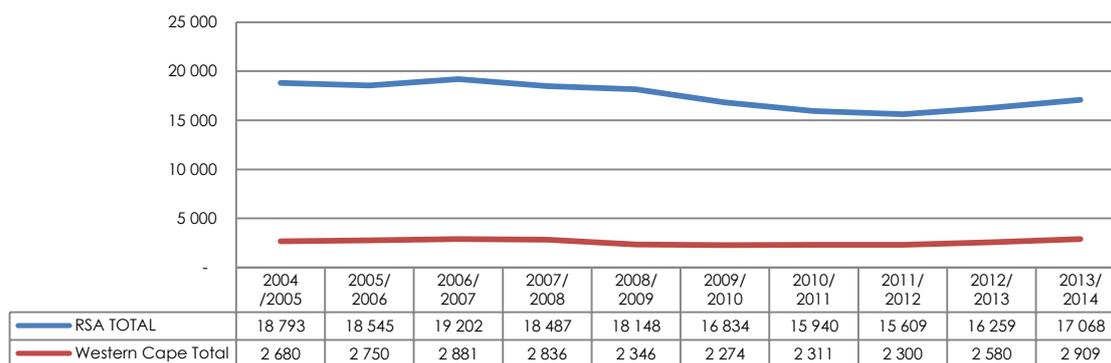
⁵⁵ Source: National Firearms Registry, received on 3 June 2015 from the Civilian Secretariat for Police

⁵⁶ Central Firearms Registry, cited in Department of Community Safety, (2013). *Draft Paper on handing in of guns by the communities to law enforcement agencies (cash for guns) in Mexico and Selected Countries*. Unpublished.

⁵⁷ BuaNews. (13 April 2000). 'Firearm amnesty a "success"', *South Africa info* available online on <http://www.southafrica.info/services/gun-130410.htm>, accessed 12 July 2015.

⁵⁸ South African Police Service. (2014). *An Analysis of the National Crime Statistics 2013/2014*, p. 74.

Figure 2: Murders in the Western Cape⁵⁹



There are certain geographical areas which continue to record the highest levels of violence in the Western Cape. While the number of murders have increased in the Province by 26% between 2011/2012 and 2013/2014, the number of murders in certain areas has increased at a far higher rate (Table 3). Murders in Mitchells Plain have increased by 139% in the two year period, and those in Delft increased by 65%. Nyanga police precinct retained its position as the police station with the highest number of murders in the province.⁶⁰

Table 3: Top 6 Police stations in the Western Cape with the highest murders - 2011/12 and 2013/2014⁶¹

NO.	POLICE STATION	MURDER 2011/12	MURDER 2012/13	MURDER 2013/14	% CONTRIBUTION	% INCREASE/ DECREASE 2011/12- 2013/14
1	Nyanga	233	262	305	10.4%	31%
2	Khayelitsha	161	168	233	8%	44%
3	Harare	154	132	164	5.6%	6%
4	Mitchells Plain	66	91	158	5.4%	139.4%
5	Gugulethu	120	129	150	5.1%	25%
6	Delft	87	113	144	4.9%	65.5%

Fatal and non-fatal firearm injuries are not recorded in the crime statistics. However, the Shadow Report on Safety Information in the Western Cape used mortuary data for 2011 and 2012 to reflect on the cause of death in the Province. According to this data, the majority of murders in the Western Cape occurred as a result of stabbings (49%), while 25.3% were as a result of firearm injury.⁶²

The number of homicides committed as a result of shootings was higher in areas dominated by gangs, and in the more densely populated areas. In these areas, the percentage of deaths by shootings was higher than the provincial norm (Table 4).

Surprisingly, though Nyanga and Khayelitsha record the highest number of murders in the Province only 36% and 33% of murders were gun-shot related. The highest proportion of

⁵⁹ Crime Research and Statistics: South African Police Service.

⁶⁰ South African Police Service. 2013/14 Crime statistics. Available online at www.saps.gov.za. Accessed on 19 September 2014.

⁶¹ Crime Research and Statistics: South African Police Service.

⁶² Department of Community Safety. (2012). *Shadow Report on Safety Information: Murders in the Western Cape, A case study*. Cape Town: Western Cape Government, p. 11.

murders as a result of firearms occurred in Belhar (57.89%), where just over half of all murders were firearm-related, and Bishop Lavis and Elsies River where more than 50% of murders were fire-arm related (Table 4).

Table 4: Police stations with most gunshot murder victims in the Western Cape: 2011/2012⁶³

NO	POLICE STATION	MURDERS 2011/2012	GUNSHOT-RELATED	%
1	Belhar	19	11	57.89
2	Bishop Lavis	52	26	50
3	Elsies River	35	19	54.29
4	Mitchells Plain	68	33	48.53
5	Mfuleni	65	22	33.85
6	Muizenberg	26	11	42.31
7	Khayelitsha	177	58	32.77
8	Harare	132	49	37.12
9	Nyanga	226	81	35.84
10	Phillipi East	54	19	35.19
11	Manenberg	30	11	36.67
12	Langa	37	10	27.03
13	Delft	85	27	31.76
14	Gugulethu	116	35	30.17
15	Kraaifontein	102	24	23.53
SUB-TOTAL		1 224	436	35.62
PROVINCIAL TOTAL		2 334	605	25.92%

Recent statistics on the number of firearm injuries and deaths could not be accessed at the time of finalizing this report. It was reported that in the first three months of 2014, 236 people had been fatally shot and admitted to provincial mortuaries.⁶⁴ In 2014, 1 256 homicides were recorded at the Salt River Mortuary in the Western Cape (West Metro) alone, of which 633 (50%) were as a result of firearm violence.⁶⁵ This is a higher percentage of firearm-related homicides than was recorded in the previous years.⁶⁶ The Salt River mortuary covers several of the areas cited in table 4 above where a high proportion of homicides are firearm related.⁶⁷

These provincial statistics suggest that on average, 1.6 people are killed with a firearm each day in the Province. This is a notable portion of the 17.6 deaths per day in 2009 estimated by Matzopoulos et al.⁶⁸

⁶³ Revised statistics provided by Forensic Pathology Service, Department of Health, Western Cape Government. Private communication with Michael Vismer and Vonita Thompson on 7, 9 and 11 August 2015.

⁶⁴ Dolley, C. (13 March 2014). '3 a day shot dead in Cape'. IOL. Available online on <http://www.iol.co.za/news/crime-courts/3-a-day-shot-dead-in-cape-1.1660822#.VU3dSpD8LIU>, accessed 8 May 2015.

⁶⁵ Correspondence with Dr Gavin Kirk, Head: Clinical Unit (Principal Specialist), Forensic Pathology Service, Western Cape.

⁶⁶ Salt River Mortuary recorded that in 2010, 33.4 of homicides were firearm related; 2011, 34.07%; 2012, 36.6%; and 2013, 42.55%.

⁶⁷ Station precincts falling under the mortuary include: Athlone, Atlantis, Camps Bay, Cape Town, Claremont, Diep River, FishHoek, Grassy Park, Gugulethu, Hout Bay, Kensington, Kirstenhof, Lansdowne, Lentegeur, Maitland, Manenberg, Melkbosstrand, Milnerton, Mitchells Plain, Mowbray, Muizenberg, Nyanga, Ocean View, Philippi, Philippi-East, Pinelands, Rondebosch, Sea Point, Simonstown, Steenberg, Strandfontien, Table Bay Harbour, Tableview, Woodstock, Wynberg.

⁶⁸ Matzopoulos, R., Prinsloo, M., Pillay-van Wyk, V., Gwebushe, N., Mathews, S., Martin, L., Laubscher, R., Abrahams, M., Msemburi, W., Lombard, L., & Bradshaw, D. (2015). 'Injury-related mortality in South Africa: a retrospective descriptive study of post-mortem investigations', *Bull World Health Organ* 2015 (93), pp.303-313.

Killings as a result of gang shootings have long been in the spotlight due to ongoing gang violence in areas such as Bonteheuwel, Manenberg, Phillipi, Nyanga, Hanover Park and Mitchells Plain. These shootings affect children, as well as adults. In one incident in 2014 a three-year-old girl from Bishop Lavis was killed on a Sunday after a stray bullet hit her,⁶⁹ and in a similar incident a teenager was recently shot in Manenberg.⁷⁰ For the period January – July 2014 at least 31 people were reported killed in suspected gang incidents.⁷¹ An earlier study that assessed firearm injuries and deaths among children between 1992 and 1996 found that 19% (330) of the 1 736 children sampled had died due to firearm injuries. In addition, injury incident reports and deaths amongst children almost tripled between 1992 and 1996, in an 'an escalating epidemic of firearm injuries and deaths among children and adolescents in Cape Town'.⁷²

More recently, researchers from the Trauma Department of Red Cross War Memorial Children's Hospital in Cape Town conducted a study that showed a significant decline in children being admitted to this hospital with firearm injuries between 2001 and 2010.⁷³ This reflects the earlier described trend in the reduction of firearm related homicides. However, given the recent increase in murders, it is possible that this figure may subsequently have increased. The study points to the alarming finding that the majority of children injured by firearms were shot unintentionally, and of these, they were predominately (38.7%) caught in the cross fire.⁷⁴

There is a worrying element of teenagers involved in violent crimes in certain parts of the Province, and a burgeoning problem of youth who are involved in gangs and gang activities, especially on the Cape Flats.⁷⁵ While police battle to curb the rampant gun trade, the increasing use of homemade firearms threatens to further derail any chance of controlling gang violence and effective gun control. Not so long ago, the Western Cape identified the need for the reinstatement of the specialised units and highly trained professional staff at the police station as a policing need particularly to combat both gang

⁶⁹ Felix, J. (11 March 2014) 'Girl ran home after being hit by bullet', Cape Times. Available online <http://www.iol.co.za/news/crime-courts>. Accessed on 20 August 2014.

⁷⁰ Abbass, G., and Tswana, Y. (10 July 2015). 'Manenberg Truce "slowly falling apart"', IOL, available online on <http://www.iol.co.za/news/crime-courts/manenberg-truce-slowly-falling-apart-1.1883638>, accessed 13 July 2015.

⁷¹ Matroos, J. (23 September 2014) 'Gang violence erupts in Cape Town again' Available on the website: <http://www.sabreakingnews.co.za> Accessed on 25 September 2014

⁷² See Wigton, A. (1999). 'Firearm Related Injuries and Deaths Among Children and Adolescents in Cape Town'. *South African Medical Journal*, 89(4), 407- 410.

⁷³ See Campbell, N. M., Colville, J. G., van der Heyde, Y. and van As, A. B. (2013). 'Total Gun Deaths 2005.' *Firearm Injuries to Children in Cape Town, South Africa: Impact of the 2004 Firearms Control Act*; Vol 51 (No 3), p. 92. Cape Town: The South African Journal of Surgery (SAJS). 1 August.

⁷⁴ Campbell, N. M., Colville, J. G., van der Heyde, Y. and van As, A. B. (2013). 'Total Gun Deaths 2005.' *Firearm Injuries to Children in Cape Town, South Africa: Impact of the 2004 Firearms Control Act*; Vol 51 (No 3), p. 92. Cape Town: The South African Journal of Surgery (SAJS). 1 August, p. 93.

⁷⁵ Swinger, S. (26 May 2014). 'The Cape's youth gangs: Bigger, deeper, more dangerous', *Daily Maverick*, available online on <http://www.dailymaverick.co.za/article/2014-05-26-the-cape-youth-gangs-bigger-deeper-more-dangerous/>, accessed on 21 July 2015.

related crime and drug related crime.⁷⁶ This call converges with the vision of the National Development Plan to make South Africa safe for all.⁷⁷

The problem of the high rate of firearm related murders in these areas highlights a need for a better understanding of the distribution and use of firearms in these areas, as well as an assessment of the extent to which firearms used in these deaths were legal or illegal.

Of concern is the number of police officials who are killed by firearm. Murders of police officials are accompanied often by the theft of their firearms.⁷⁸ By early August 2015, it was reported that 53 police officers had been killed.⁷⁹ It is not clear whether all these officers were killed while on duty, or with a firearm. Family members of police members may also be vulnerable to violence. In 2014, an elderly woman was gunned down in Manenberg, apparently for being the mother of the police detective of the operation combat anti-gang and drug unit.⁸⁰

People and animals are also subject to injuries and fatalities as a result of the use of guns and air guns in the City of Cape Town. There are no licensing requirements for people who want to buy air guns. These guns are relatively cheap, their price ranging from R1 800 to R17 000, and their ammunition from R20 to R340 depending on the model and the quantity in a package.⁸¹ Although the FCA does impose penalties for negligent use of an air gun, Section 120(3)(a) stipulates the penalty that can be meted out to someone who fires an air gun and causes bodily injury to any person or causes damage to property of any person by negligently using a firearm, an antique firearm or an air gun. The study on children injured by firearms noted that while the proportion of firearm injuries caused by guns had decreased, injuries caused by pellet guns had not decreased from 2001 to 2010. The authors reflected on the fact that while the FCA exercised control over guns, there was no corresponding control over pellet guns.⁸²

5. AIMS AND OBJECTIVES OF THE STUDY

The aim of the study was:

⁷⁶ See Western Cape Government. (2012/13). *Review on the impact of disbanding and restructuring the SAPS capabilities on gangs and drug related crime in the Western Cape*. Western Cape Government.

⁷⁷ National Planning Commission. (2011). *National Development Plan Vision 2030*. Republic of South Africa, p. 355.

⁷⁸ For example, three officers were murdered in the Western Cape in June 2014 and their firearms stolen: Geach, C. (1 July 2014). 'Three Cape cops slain, guns stolen', IOL News, available online on <http://www.iol.co.za/news/crime-courts/three-cape-cops-slain-guns-stolen-1.1712229>, accessed 12 July 2015.

⁷⁹ Mabotja, K. (4 August 2015). 'Cop killers will be hunted – Zuma'. IOL News. Available on <http://www.iol.co.za/news/crime-courts/cop-killers-will-be-hunted-zuma-1.1895006>, accessed 4 August 2015.

⁸⁰ (15 October 2014). 'Hitmen kill mom of anti-gang cop' Newspaper, website: www.iol.co.za

⁸¹ Williams, M. (2014). 'These "toy guns" can kill. Bellville/ Durbanville Tyegertalk. 18 September: 1

⁸² Campbell, N. M., Colville, J. G., van der Heyde, Y. and van As, A. B. (2013). 'Total Gun Deaths 2005.' *Firearm Injuries to Children in Cape Town, South Africa: Impact of the 2004 Firearms Control Act*; Vol 51 (No 3), p. 92. Cape Town: The South African Journal of Surgery (SAJS). 1 August, p. 95.

- a. To examine existing data on firearm related crime in South Africa and the Western Cape,
- b. To examine the implementation of the FCA towards proper management and control of firearms, including the reduction in the proliferation of firearms, and
- c. To identify problems encountered by the SAPS in enforcing the FCA in the Western Cape.

6. RESEARCH METHODOLOGY

The national Civilian Secretariat for Police determined the scope for the study to be conducted by each Provincial Secretariat. Each province was to examine firearm related dockets for the period 1999 to 2014 in four police stations, two of which must be urban, one in a rural area, and one in a peri-urban area. Four police stations in the Province were selected in the study: Mitchell's Plain and Nyanga were selected as urban police stations, Paarl East as the peri-urban station, and Worcester as the rural station. These stations also had a high prevalence of firearm related crimes. In the period under review, Paarl East recorded 626 firearm-related cases; Worcester reported 1 313 cases; Nyanga recorded 5 727 cases; and Mitchells Plain recorded 3 966 cases.

The study used both quantitative and qualitative methodology designed by the national Secretariat.

- A questionnaire was used as the basis for interviews with the Designated Firearm Officer at each police station. The questionnaire consisted of both closed and open-ended questions. A face to face interview was conducted with the DFO of the selected police stations under study and the Provincial office.
- The Provincial DFO was also interviewed using an unstructured questionnaire to establish the context that DFOs were working within in the Western Cape.
- Analysis of dockets: A sample of 300 dockets was accessed for purposes of ascertaining information on the cases where guns were used to commit crime. The selected case dockets covered the period from 1999 to 2014. A total of 75 dockets per station were considered. These dockets were randomly selected, and related to various type of firearm-related crime: five for each year of the fifteen year sample period.
- Provincial SAPS crime statistics were examined for the period 1999 to 2014 to ascertain trends in the commission of crime involving the use of a firearm. Although the SAPS do not publish this information, it was available for the study through the national Civilian Secretariat for Police.

- Information from the Central Firearm Registry pertaining to the number of license applications, applications for renewals of licenses, and reported losses and theft of firearms was accessed and used in the study.

7. LIMITATIONS OF THE STUDY

The study had the following limitations:

- 7.1 The sample for the study was limited to four police precincts and restricted to five dockets per year, totalling 75 dockets where firearms were used. The analysis provides sufficient insight to the nature of the problem but falls short in terms of representing all the police precincts in the Province. Because so few cases were examined, these may not be representative of each station.
- 7.2 The official SAPS annual statistics do not provide a breakdown of gun related crimes, or of their surrounding circumstances. It is therefore not possible to determine what percentage of these dockets represented crimes committed with a firearm.
- 7.3 The study notes that any change in gun related violence and crime might not be solely attributed to the firearm legislation. Other factors could have played a role in the decrease or increase of violent crime which this study could not determine.
- 7.4 The study could not determine the number of firearms that have been destroyed in the Western Cape Province owing to lack of information being provided by the SAPS Provincial Office.

8. DATA ANALYSIS AND FINDINGS

8.1 THE PERSPECTIVE OF DESIGNATED FIREARMS OFFICERS

Section 123 of the Firearms Control Act assigns the National Police Commissioner as the Registrar of Firearms. The Registrar must designate police officials as Designated Firearms Officers (S 124(2)(h)). The DFO is responsible for processing firearm applications; accreditation; issuing of competency certificates; issuing and renewing licenses for individuals, traders, businesses, gunsmiths, and manufacturers, etc. Furthermore, the DFO issues permits and temporary authorisations. He/she captures applications on the information system, evaluates the application, and ensures firearm data integrity. He/she is also responsible for terminating licenses, declaring that applicants are unfit to possess firearms, and for disposing of firearms. As part of the DFO's responsibility, he/she must conduct an inspection to determine that there is a physical safe to safely store the firearm(s), as well as

conduct background checks on the applicant, and make recommendations in compliance with S 102(1)(a-e) to declare a person unfit to possess a firearm.

After receiving and processing an application, the DFO must inform the applicant of the outcome. Based on the information and the completeness of the supporting documents the DFO refers the application back to applicant or accepts it and sends it for approval by the Central Firearm Register office.

The DFO is located within the division Visible Policing – in the SAPS Firearm, Liquor and Second Hand Goods (FLASH) office at police stations. In addition to the responsibilities assigned by the FCA, the DFO has other responsibilities, which include conducting raids at shebeens, and participating in crime prevention and stop and searches operations. The nexus between alcohol and crime necessitated that the police locate the liquor and second hand goods alongside firearm control initiatives.

In line with the methodology of the study, face-to-face interviews were conducted with the Provincial DFO and the DFOs of identified police stations using a questionnaire designed by the national Secretariat. The questionnaire aimed to gather the DFOs' opinions regarding the effect of the firearm legislation on crime in the Western Cape. The table below provides a brief description of the DFO environment at the identified four police precincts.

Table 5: Description of the DFO environment

NO	STATION NAME:	MITCHELLS PLAIN	WORCESTER	NYANGA	PAARL EAST
1	Rank of Station Commander:	Brigadier	Brigadier	Brigadier	Colonel
2	Geography of station:	Urban	Rural	Urban	Peri-urban
3	Does the station have a DFO?	Yes	Yes	Yes	Yes
4	Rank of DFO:	Captain	Warrant Officer	Captain	Warrant Officer
5	Year appointed:	2014 ⁸³	2004	2009	2002
6	Firearm Control Act training received:	No	Yes	Yes	Yes
7	Assessment of Competency Certificate training received:	No	Yes	Yes	Yes
8.	Application of firearm licenses training received:	Yes	Yes	Yes	Yes
9	Renewal of firearm licenses training received:	Yes	Yes	Yes	Yes

The four police stations in the study each had a DFO. All except one of the DFOs had been in their positions for some years (Table 5). These longer-serving DFOs had undergone training on the Act, as well as on the process of conducting an assessment for competency certificates, and for applications and renewal of firearm licenses.

⁸³ At the time of collecting data and writing the report, the Mitchells Plain DFO had only recently been appointed to replace a previous DFO.

The DFOs reported that they experienced some problems in executing their functions. They reported that their responsibilities, as well as the additional expectations as part of the FLASH were so onerous that it was difficult to cover the required jurisdictions and comply with the provisions of the Act. None of the identified stations had more than three SAPS members allocated for both firearm licencing and liquor control. Owing to the lack of human resources, and the location of the FLASH office within visible policing, the DFOs reported that they were frequently instructed to attend to crime prevention operations at any time and perform general policing work. This tends to reduce the amount of time they have available to fulfil their responsibilities and to dedicate to the proper implementation of the Act as required.

This accords with the view of some critics that owing to the staff shortfall, DFOs cannot always conduct their duties optimally to determine whether the applicant is fit to own a firearm. This includes failing to conduct a thorough background check which includes interviewing the applicant's spouse, inspecting his or her home to ensure that he has a safe and checking the domestic violence register to see that no final protection order has been issued against the applicant in terms of S 102(1)(a).⁸⁴

The small number of staff has a negative bearing on the processing of licenses, lapsed licenses which must be renewed, application for licenses and compliance. Furthermore, the DFOs reported that there is a lack of material resources in the form of computers, scanners and systems in order to capture the required police station information. In the Western Cape, not all police stations have access to an electronic system used to capture the firearm related data in compliance with S 125(1)(a-g) of the Act, and use a paper-based system.

Worcester police station is a case in point. The SAPS staff establishment of Worcester police station at the time of writing this report was 359 of whom 284 were sworn members. There were 20 members who were office bound and 55 employees employed in terms of the Public Service Act. Worcester police station has one DFO and one Assistant DFO, both trained in the Firearms Control Act. They have three administrators and one vehicle. On average, Worcester police station captures 45 applications per month. These officials play crucial and various administrative roles in the applications for accreditation for business purposes, associations, shooting ranges, and applications to provide training in the use of firearms, etc. These functions include interviews with the applicants, conducting a background check, capturing the application on the Enhanced Firearm Register System (EFRS) and communicating with the applicants. With these resources, they capture for De Doorns, Touws River, Ceres, Prince Alfred Hamlet, Wolsey and Tulbagh police station. This staffing structure is common in the Western Cape, because when the FCA was implemented

⁸⁴Gun Free SA. (2015). *Firearms Control Briefing 7 of 2015: The police and guns: Controlling the use and misuse of firearms*. Gun Free South Africa. Available online at www.gfsa.org.za. Accessed on 15 May 2015.

in the Western Cape, only 45 of the 150 police stations were given work stations to capture firearm applications. According to the respondents no additional human resources had been allocated to the function since 2004.

The complexity of the situation is exacerbated by the issuing of temporary authorisations to use a firearm in terms of S 21. The SAPS standard procedure is that a temporary permit must be approved within a day by the Provincial Office, but can only be issued by the Central Firearms Registry. This means that where someone applies for a temporary application, the DFO must drive from his or her police station to the SAPS Provincial Office to obtain the approval of the application, regardless of the distance. This can significantly affect the amount of time available to comply with all the other DFO functions.

The DFOs were of the view that the Act is a good one, but that there is a lack of clarity in certain respects, for instance, the management of the firearm of a deceased person. Section 148(1)(a) and (b) of the Act requires a person who inherits a firearm to either apply for a license, permit or authorisation if she or he wishes to keep the firearm, or to have the firearm deactivated or disposed of in compliance with provisions of the Act. However, the Act does not stipulate a timeframe in which the executor is supposed to make a decision about a firearm that belongs to a deceased. Thus far, it would appear that the executor may keep the firearm indefinitely without taking full ownership of the firearm or handing it over to the state.

In addition, the Act provides that on conviction of a person for an offence outlined in S 103(1) the person becomes unfit to possess a firearm, unless the court states otherwise. For offences not listed in that section, the court must make a determination of whether or not the person is fit to possess a firearm. The court must notify the Registrar in writing of that conviction, determination or declaration (S 103(3)). The DFOs reported that often this notification is delayed, and they are unable to act timeously on this knowledge. They argued that there is a need to have a trained DFO assigned to the Detective Branch to help investigate whether the person should be able to possess a firearm, and to advise the court accordingly. Similarly, they felt that a DFO with this knowledge would be able to act on the court's order as soon as it is handed down.

The SAPS needs the identity number of an applicant in order to process a firearm application. However, the Department of Home Affairs is the custodian of that data, as well as of other information pertaining to individuals, and it is not always quick or easy for the DFOs to obtain confirmation of this information. In addition, the DFO is not automatically informed when a person dies leaving a firearm as part of the estate.

8.2 REPORTED FIREARM RELATED CRIME

Before discussing the firearm related crime statistics in the Western Cape, it is worth noting that crime statistics are not always an accurate reflection of actual crimes committed. Murder statistics are generally considered as the most reliable crime statistic, though even these may not be 100% accurate.⁸⁵ Crime statistics generally are subject to the rate at which members of the community report such cases to the police, and how these crimes are recorded. For instance, a report may be made of attempted murder, but the police may record it as an assault. Certain crimes are also dependent on the extent to which police take action and carry out their functions. Drug and alcohol related crimes are particularly dependent on police action, but so are crimes such as unlawful possession of a firearm and ammunition. In addition, the SAPS only report on certain categories of crime in its statistical reports.

Table 6 indicates that during the period 1999/2000 to 2013/2014, the Western Cape contributed 11% (157 665) to all reported firearm related crime over the period (of which the total was 1 415 885) compared with Gauteng which contributed 40.75% (576 913) and KwaZulu-Natal contributed 24.46% (346 298) respectively. While some firearms and ammunition may be detected during stop and search operations, the majority of these weapons are found when a suspect is searched and arrested for a crime, especially for firearm related crimes.

Table 6: Provincial comparison of firearm related crime: 1999/2000 – 2013/2014⁸⁶

PROVINCE	REPORTED FIREARM RELATED CRIME	% REPORTED FIREARM RELATED CRIME
Eastern Cape	94 861	6.70%
Free State	54 410	3.84%
Gauteng	576 913	40.75%
Kwazulu-Natal	346 298	24.46%
Limpopo	46 427	3.28%
Mpumalanga	79 980	5.65%
North West	49 373	3.49%
Northern Cape	9 928	0.70%
Western Cape	157 665	11.14%
TOTAL	1 415 855	100.00%

Table 7 below sets out the offences where a firearm was used in the commission of an offence in the Western Cape for the period 1999/2000 to 2013/2014, as well as offences related to the illegal use of firearms and ammunition. The study sample was drawn from these

⁸⁵ In the 2009 injury mortality study conducted by Matzopoulos et al, they found significant under reporting: reviewing the vital registration data, they recorded 13% more homicides than those recorded by the South African Police Service in 2009: Matzopoulos, R., Prinsloo, M., Pillay-van Wyk, V., Gwebushe, N., Mathews, S., Martin, L., Laubscher, R., Abrahams, M., Msemburi, W., Lombard, L., & Bradshaw, D. (2015). 'Injury-related mortality in South Africa: a retrospective descriptive study of post-mortem investigations', *Bull World Health Organ* 2015 (93), pp. 303–313, at p. 307-8.

⁸⁶ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

dockets. These include crimes of murder, attempted murder, robberies, assault and sexual offences. The figures for culpable homicide were not provided, even though they may also have involved firearm-related deaths.

In terms of the individual crime categories where a firearm was used to commit a crime, attempted murder, murder and robberies (car-jacking, house and business robberies) were the highest contributors of these reported crimes during the period 1999/2000 to 2013/2014. During this period, attempted murder contributed 20.5% of all reported crime where a firearm was used as a weapon to commit the crime.

There were also a large number of firearm-specific offences, where a firearm or ammunition was used unlawfully or negligently. Amongst these, pointing of a firearm and unlawful possession of a firearm and ammunition were the most prolific offences.

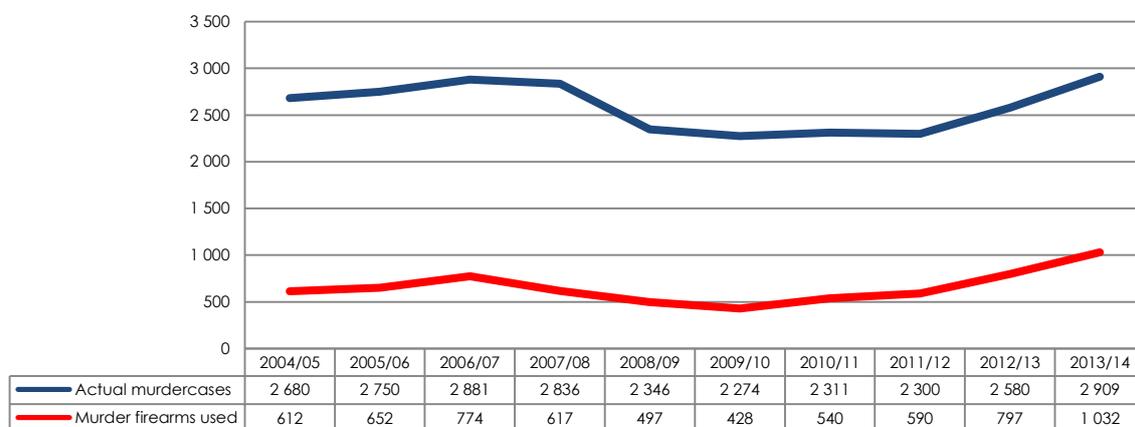
Table 7: Number of reported crimes where a firearm was used to commit a crime during the period 1999/2000 to 2013/2014

REPORTED FIREARM RELATED CRIME		WESTERN CAPE	NATIONAL	% CONTRIBUTION
Crimes where a firearm was used as a weapon to commit a crime	Murder	11 463	86 442	13.26%
	Attempted Murder	32 289	224 043	14.41%
	Sexual Offence - Assault	77	323	23.84%
	Sexual Offence - Rape	444	7 985	5.56%
	Assault	4 378	39 896	10.97%
	Domestic Violence	2 424	23 872	10.15%
	Kidnaping and Abduction	1 336	8 095	16.50%
	Common Robbery	1 629	18 146	8.98%
	House Robbery	7 800	139 452	5.59%
	Bank Robbery	73	1 369	5.33%
	Cash-in Transit Robbery	365	3 311	11.02%
	Business Robbery	12 001	136 788	8.77%
	Car Hijacking	9 457	172 038	5.50%
	Truck Hijacking	599	19 755	3.03%
SUBTOTAL	84 335	881 515	9.57%	
Firearms specific crimes	Negligent Handling	3 481	24 289	14.33%
	Pointing Firearm	27 402	255 028	10.74%
	Unlawful Discharge	5 627	28 495	19.75%
	Unlawful possession - Ammunition	13 218	59 248	22.31%
	Unlawful possession - Firearms	23 585	167 263	14.10%
SUBTOTAL	73 313	534 323	13.72%	
TOTAL	157 648	1 415 838	11.13%	

In the Western Cape during the period 1999/2000 – 2013/2014, of all the crime categories, 20.5% of these crimes related to attempted murder, 7.3% to murder and business robbery accounted for 7.6%.

Looking at the crime trends in the Western Cape over the study period, the number of murders increased to a high of 2 881 in 2006/2007. After a short plateau, it declined to its lowest point of 2 274 in 2009/2010. The figures have subsequently increased steadily to the highest level in a decade at 2 909 in 2013/2014. The pattern of murders involving the use of a firearm has mirrored that trend. However, the percentage of murders committed using a firearm has increased from 22.8% in 2004/2005 to 35.5% in 2013/2014 showing an increase in the use of firearms in the Western Cape. The percentage of cases involving firearms was lowest in the period 2006/2007 to 2009/2010. The reasons for this growing trend are not clear, but may be linked to the increase in firearm licenses issued since 2010/2011 (Figure 1, above), as well as to corruption in the issuing of licenses and ammunition discussed above.

Figure 3: Firearms used in cases of reported murder in the Western Cape⁸⁷

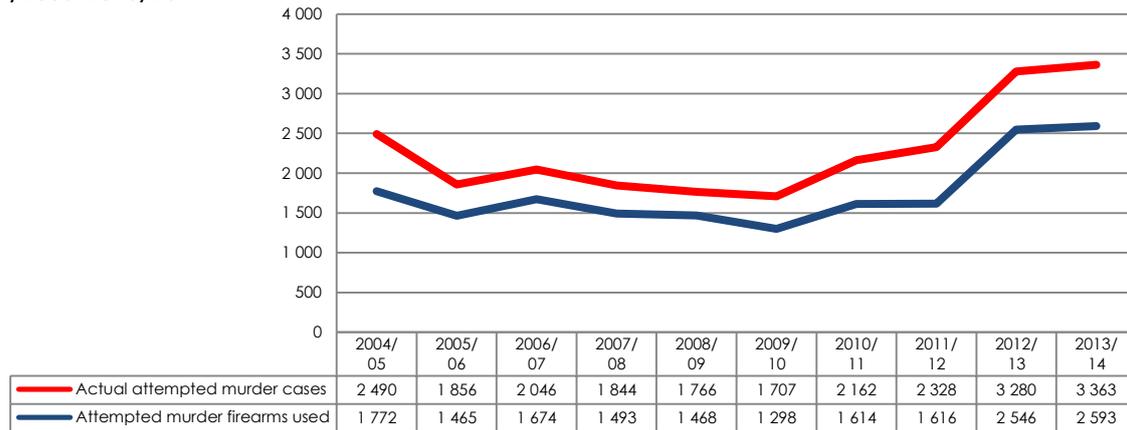


Figures for reported cases of attempted murder in the Western Cape showed a decline between 2004/2005 and 2009/2010, and have since increased to a decade high of 3 361 in 2013/2014. The number of attempted murder cases involving the use of a firearm has shown a very similar trend. Whereas 72% of cases involved firearms in 2004/2005, this has slightly increased to 77% in the latest financial year. The involvement of firearms in attempted murder cases was at its highest point of 83% in 2008/2009 (Figure 4, below).

During the period 2004/2005 to 2013/2014 a firearm was used in seven out of every ten attempted murder cases reported per year.

⁸⁷ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

Figure 4: Number of cases where firearms were used in attempted murder cases in the Western Cape – 2004/2005-2013/2014⁸⁸



Looking at statistics before the implementation of the Act, it is clear that reported cases of attempted murder where a firearm was used started to decline before the implementation of the FCA (Figure 5, below). The number peaked in 2002/2003 and was at its lowest in 2009/2010. From 2010/2011 attempted murder with a firearm increased steadily. Between 2011/2012 and 2012/2013, attempted murder where a firearm was used increased by a staggering 57.5%, bringing it back to almost the same level as in 1999.

Figure 5: Attempted murder where a firearm was used as the means to commit a crime⁸⁹

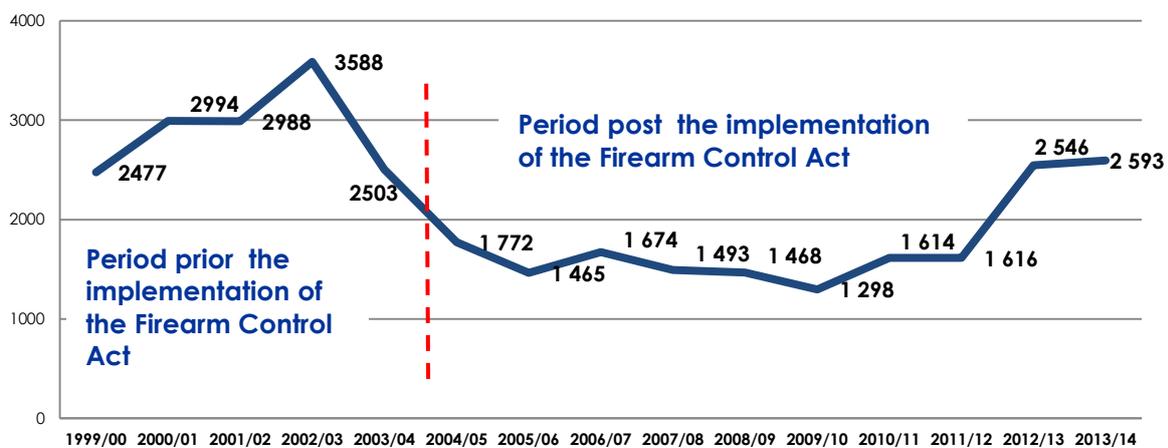


Figure 6 below, shows that after the implementation of the Act, cases of unlawful possession of a firearm or ammunition increased steadily by 36.6%. Where there was an initial decrease in reported cases of attempted murder from 2004, this also began to rise from 2009 (as discussed above). Business robbery statistics fell sharply from 2001, and decreased to their lowest point in 2004.

⁸⁸ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

⁸⁹ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

Business robbery, murder and unlawful possession of a firearm or ammunition, stabilised in 2004/2005 and thereafter unlawful possession of a firearm or ammunition increased by 36.6%; murder increased by 68.6% and business robbery increased overwhelmingly by 2 062%, particularly during the period 2004/2005 to 2013/2014. During the same period, attempted murder increased by 46.3% (Figure 6).

Figure 6: Western Cape crime statistics where firearms were used: murder, attempted murder, business robbery, and unlawful possession of firearms for the period 1999/2000 to 2013/2014

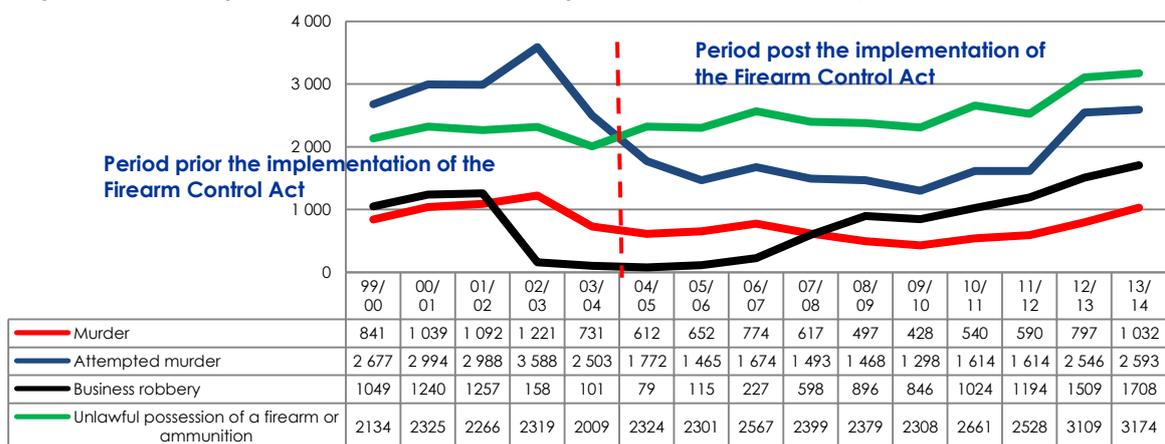
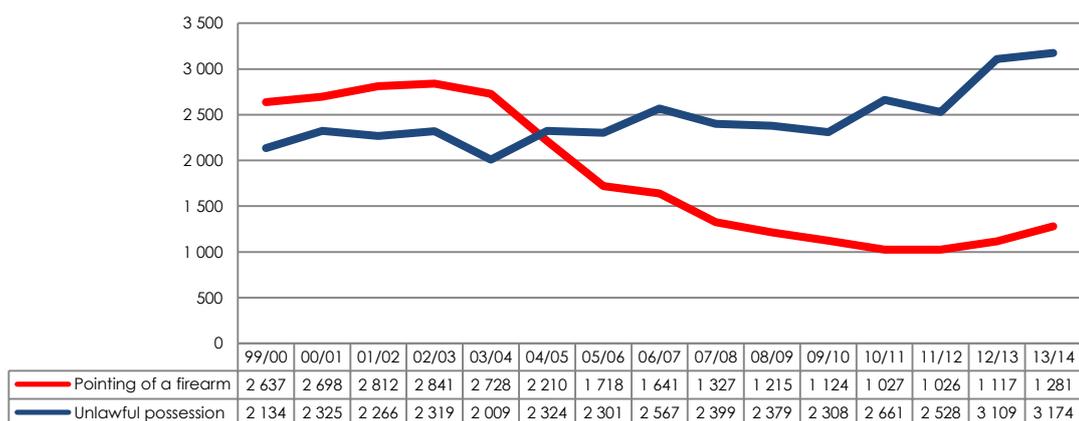


Figure 7 illustrates that reported cases of pointing of firearm decreased from 1999/2000 to 2011/2012. However, a gradual increase has been observed since 2012/2013 onwards. The numbers of cases of pointing of a firearm has steadily increased by 48.7% over the period. This could indicate that there are more illegal firearms in circulation, or that the SAPS are becoming more vigilant in removing illegal firearms and charging the suspects

Figure 7: Western Cape: Pointing of a firearm and unlawful possession of a firearm or ammunition⁹⁰

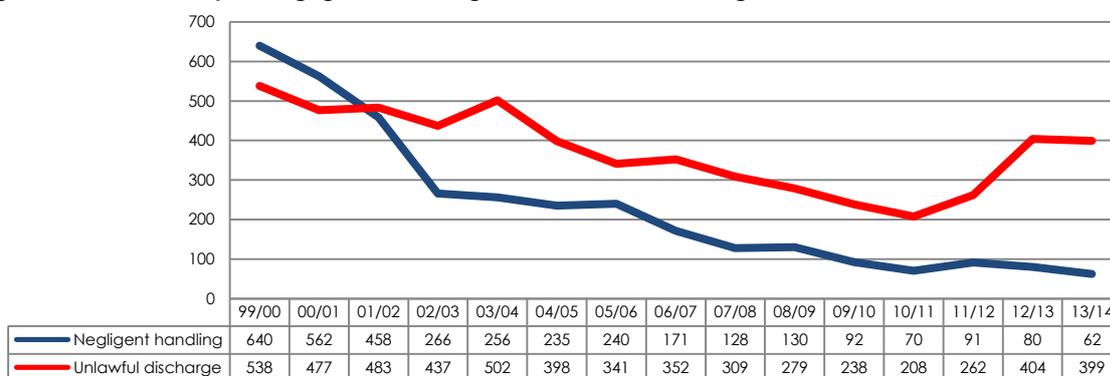


The trend in terms of reported cases of negligent handling of firearm showed a downward spiral from 1999/2000 through to 2013/2014. Although the Firearms Control Act came into effect in 2004, the crime incidents have substantially reduced. Reported cases of unlawful

⁹⁰ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

discharge of a firearm also decreased steadily from 1999/2000, but appear to have increased slightly from 2010/2011, and then stabilised at 404 in 2012/2013 (Figure 8, below). These crimes are really dependent on the extent to which members of the public report allegations of negligent handling of firearms and unlawful discharge, and the police's response to reports of such crimes. They may also reflect secondary crimes where a primary offence such as robbery, has been committed. A decrease in crime statistics does not necessarily indicate that there are fewer incidents where people are negligently handling a firearm, but is more likely to reflect reporting and recording thereof. Further research would be needed to determine whether the decline in these cases could be as a result of harsher penalties in the Act, or fewer firearms in the hands of irresponsible individuals.

Figure 8: Western Cape: Negligent handling and unlawful discharge of a firearm⁹¹



The study analysed reported cases of murder, attempted murder, common robbery and sexual offences to determine the percentage of cases where a firearm was alleged to have been used in the Western Cape. Figure 4 shows that firearms have been used most in cases of attempted murder (76.8%). Firearms were used on average in three out of every four cases of attempted murder, whereas they were only used in one in four cases of murder (25%). The reason for the discrepancy is not clear.

According to this data, firearms were used infrequently in the commission of sexual offences, constituting 0.1% of reported sexual offences in 2013/2014 (Annexure A).⁹² Firearms were also seldom used during the commission of common robbery, which is understandable given that the use of a firearm in a robbery usually means that the robbery is classified as 'aggravated robbery' rather than a 'common robbery'.⁹³ Even so, firearms were reported to have been used only in 13.8% of aggravated robberies (Annexure A).

⁹¹ Source: National Firearms Registry, received from the National Civilian Secretariat for Police.

⁹² This is in stark contrast with the Victims of Crime data which indicated that 24% of victims of sexual offences reported that a gun has been used in the commission of the offence: Statistics South Africa. (2012). *Victims of Crime Survey: Reference period January to December 2011*, p. 57.

⁹³ See Institute of Security Studies, Crime Hub: 'The definitions of crimes used to compile the crime statistics', available online on <https://www.issafrica.org/crimehub/topics/crime-statistics/the-definitions-of-crimes-used-to-compile-the-crime-statistics>, accessed 15 July 2015.

8.3 SAMPLING AND ANALYSIS OF CASE DOCKETS

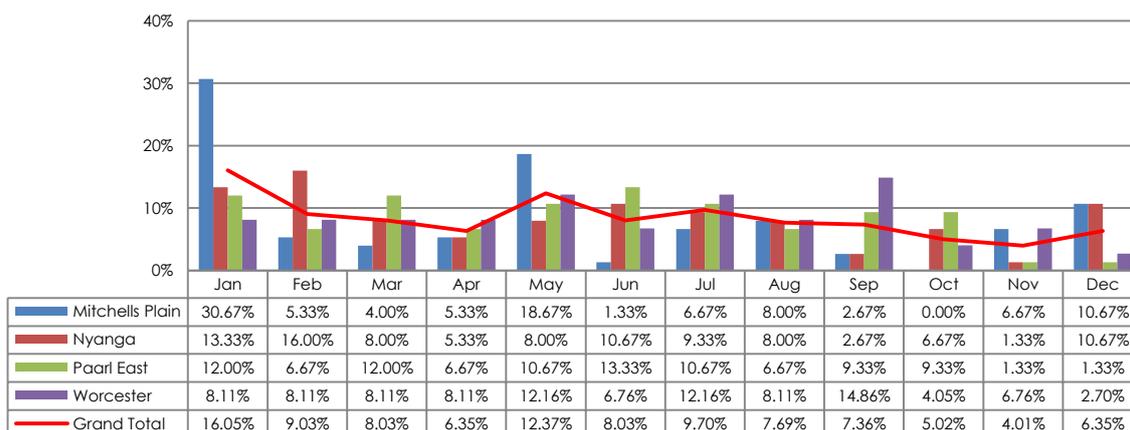
The following section of the report deals with the analysis of the 300 cases dockets for the period 1999 to 2014 where firearms were used to commit crime – 75 from each of the four police stations. Information was obtained from the dockets relating to the time of month when the crime was committed, weekday and time of day. Furthermore, a profile of the perpetrators and the outcome of these cases are discussed. More than a third of the cases (112) related to firearm specific offences, and the remaining cases were matters where firearms were used in the commissions of crimes. These were not evenly selected from each police station (Table 8, below).

Table 8: Docket study: Use of firearms to commit crimes: Western Cape – 2004-2014

CRIME CATEGORY	MITCHELLS PLAIN	NYANGA	PAARL EAST	WORCESTER	TOTAL	% CONTRIBUTION
Armed Robbery	34	20	6	16	76	25.3%
Attempted murder	6	13	11	12	42	14.0%
Murder	3	12	6	6	27	9.0%
Common assault	1	6	2	6	15	5.0%
Robbery	2	5	3	0	10	3.3%
Sexual crime	1	2	0	1	4	1.3%
Domestic violence	2	1	0	0	3	1.0%
Malicious damage to property	0	0	3	0	3	1.0%
Damage to property	0	0	2	0	2	0.7%
Attempted armed robbery	2	0	0	0	2	0.7%
Assault	1	1	0	0	2	0.7%
House robbery	0	0	0	1	1	0.3%
Public violence	0	0	1	0	1	0.3%
TOTAL FIREARM AS WEAPON TO COMMIT A CRIME	52	60	34	42	188	62.7%
Unlawful possession of a firearm and ammunition	4	10	31	12	57	19.0%
Pointing of a firearm	5	4	4	9	22	7.3%
Theft of firearm	8	1	3	1	13	4.3%
Negligent handling of a firearm	2	0	1	7	10	3.3%
Unlawful discharge of a firearm	2	0	0	2	4	1.3%
Loss of a firearm	0	0	0	1	1	0.3%
Illegal possession of a firearm and ammunition	2	0	2	0	4	1.3%
Unfit to possess a firearm	0	0	0	1	1	0.3%
TOTAL FIREARM SPECIFIC CRIMES	23	15	41	33	112	37.3%
TOTAL	75	75	75	75	300	100.0%

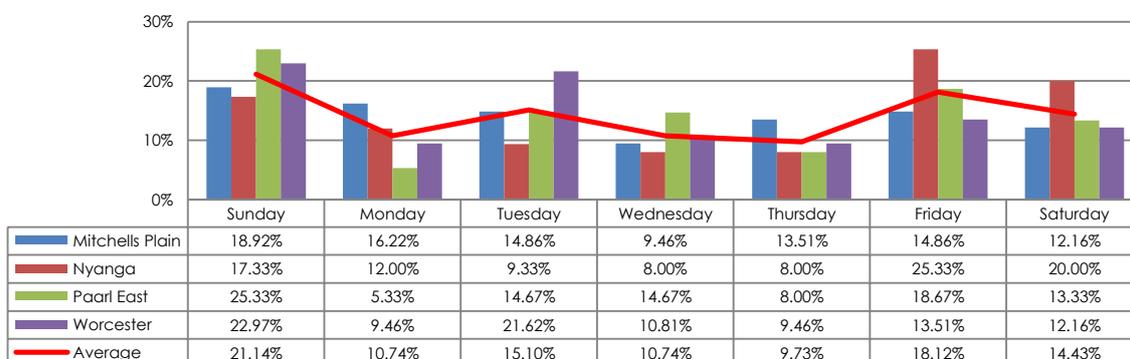
Figure 9, illustrates that on average, most of the firearm related crimes were committed in the January month. However, this is mainly due to the fact that 32% of the offences committed in Mitchells Plain were committed in January. Fewer incidents occurred in Mitchells Plain in June, September and October. May was also a high incident month for Mitchells Plain. February was a high incident month for Nyanga, and September for Worcester. The fewest crimes were committed in October and November.

Figure 9: Frequency of firearm related cases per month



When comparing the days of the week, it would appear that the least firearm related crimes were committed on Mondays and Thursdays, and the highest on Sundays and Fridays. On Sundays, Paarl East reported the highest incidents of firearm related crime whilst Nyanga recorded the highest on Fridays and Saturdays. Among the four stations, the least firearm related cases were committed in Paarl East on a Monday and Nyanga on a Wednesday and Thursday (Figure, 10). Further analysis would be required to compare the incidence of firearm related crimes with non-firearm related crimes at these stations.

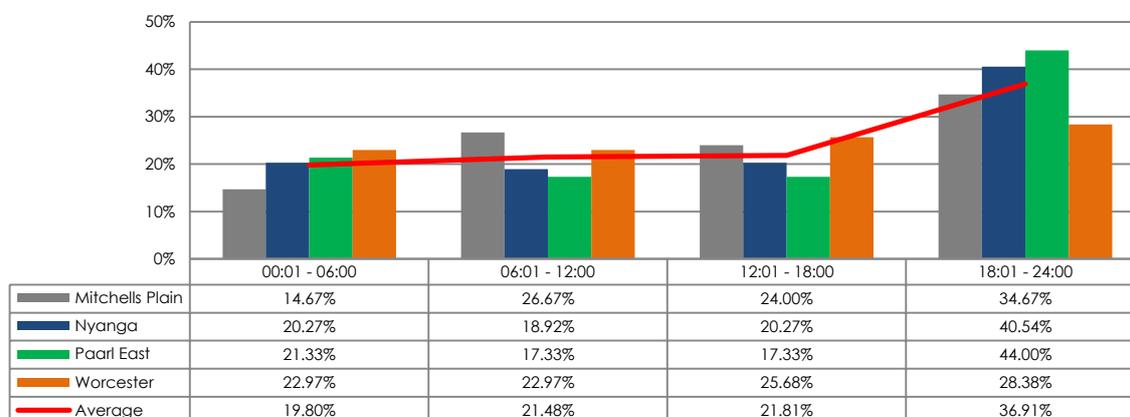
Figure 10: Frequency of firearm related crime per week



Looking at the time of day when firearm related crime was committed, Figure 11 illustrates that the highest incidence of these crimes was between the hours 18h01 and 24h00 (37% of crimes). The fewest of these crimes were committed between 01h00 and 06h00, with 21% of

crimes occurring in each of the two six-hour intervals during the day. Mitchells Plain had a higher incidence of firearm related crime during the daylight hours, whilst Paarl East was most likely to experience firearm related crimes between 18h00 and 24h00.

Figure 11: Time of the day



In addition to determining the time and day when firearms were used in committing crime, Table 9 provides the profile of the perpetrators. The overwhelming majority of perpetrators were male (97%). The majority of perpetrators (68.6%) were male between the ages 18 to 35 years. Males between the ages 36 to 55 years were responsible for 19% of these crimes. That 8.6% of perpetrators were males under the age of 18 years is also significant, given that it is likely that most of this group at least is older than 14 years of age. Females were reported to be perpetrators in 2.8% of firearm related cases, and only then between the age of 18 and 55 years old.

Table 9: Profile of perpetrators of firearm related cases (n = 140)

GENDER	0 - 18	18 - 35	36 - 55	OVER 55	TOTAL
Male	8.6%	68.6%	19.3%	0.7%	97.2%
Female	0.0%	2.1%	0.7%	0.0%	2.8%
TOTAL	8.6%	70.7%	20.0%	0.7%	100.0%

The study looked at the extent to which these matters had been finalised in court. Overall, 20% of these cases, or one in five resulted in conviction. The highest level of conviction was at Paarl East, where 46.67% of cases resulted in conviction. The lowest rate of conviction was at Mitchells Plain, with 5.33% of cases resulting in conviction. The study was unable to explain the huge discrepancy in conviction rate. Very few cases (3.33%) had resulted in acquittal at the time the dockets were analysed. This was highest in Worcester, with 6.67% of cases resulting in acquittal.

In the majority of cases (37.33%) charges had been withdrawn against the accused, with Nyanga showing the lowest rate of withdrawal (28%).

A large percentage of cases (34.67%) were undetected – or the police had failed to resolve the crime. This was highest in Mitchells Plain and Nyanga where more than 50% of cases were undetected (Figure 12, below).

Figure 12: Outcome of cases where firearms were used to commit a crime (n = 300)

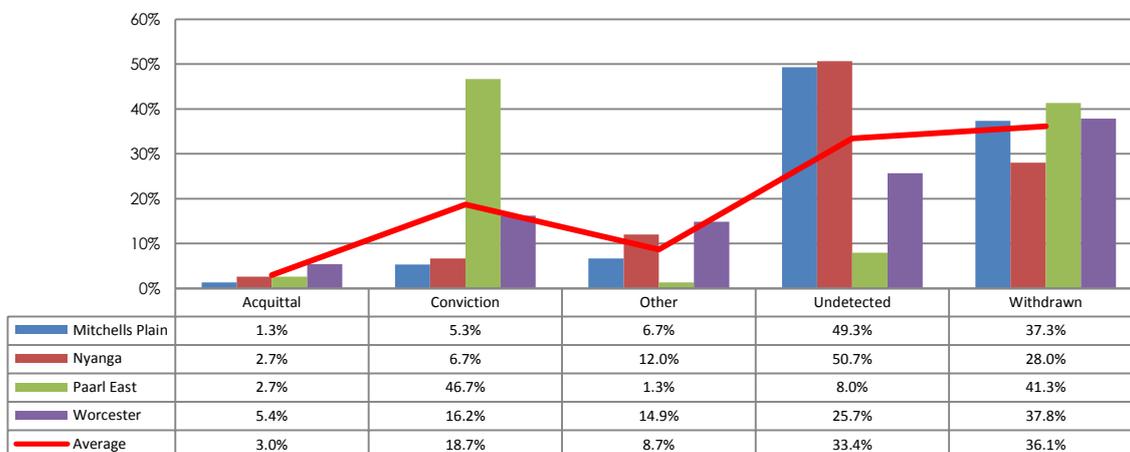


Table 10 indicates that the average number of days taken to convict a perpetrator of a firearm related crime was just over one and a quarter years (474 days). The longest average time taken to convict a person was in Nyanga at 1 257 days, or just under three and a half years. On average, cases were finalised with conviction in Worcester in 593 days (20 months) and in Paarl East in 354 days (just under a year). Cases were more speedily resolved in Mitchells Plain with an average of 145 (just less than five months).

Table 10: Average number of days to convict perpetrators of firearm related cases (n = 60)

POLICE STATION	CONVICTION CASES	TOTAL DURATION IN DAYS	AVERAGE NUMBER OF DAYS FOR A CONVICTION
Mitchells Plain	4	580	145
Nyanga	5	6 286	1 257
Paarl East	35	12 092	345
Worcester	16	9 486	593
TOTAL	60	28 444	474

Looking at the withdrawal of cases, Table 11 below indicates that it took on average of 14 months before cases were withdrawn. Decisions to withdraw a case were more swiftly made in Worcester (six months). It took over a year before cases were withdrawn at the other stations: 14 months at Nyanga; 17 months in Paarl East, and a very long 18 months in Mitchells Plain.

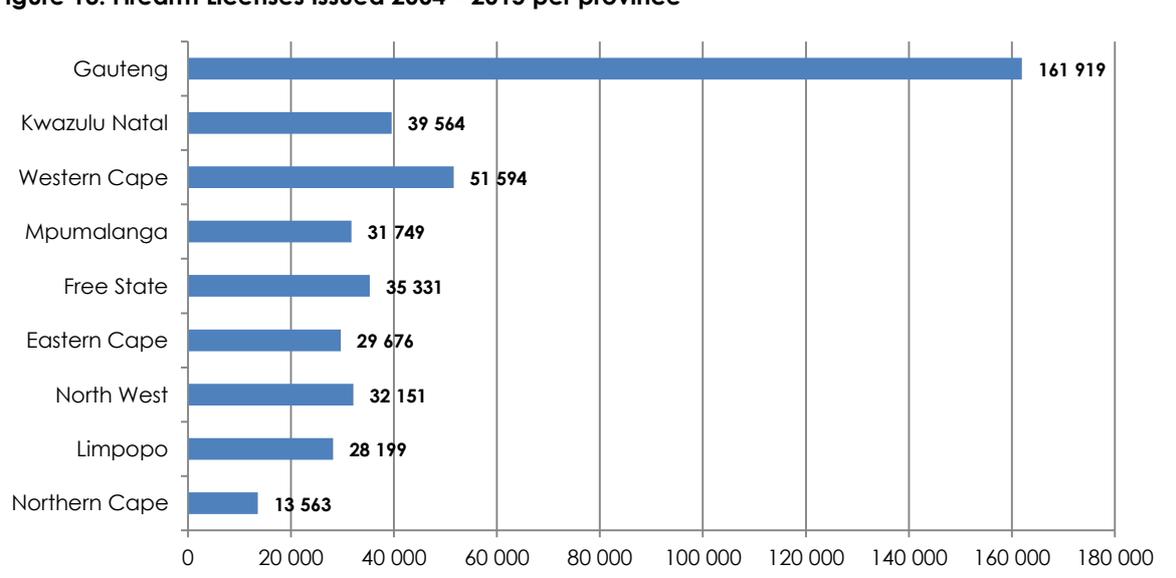
Table 11: Average number of days before cases are withdrawn (n = 111)

POLICE STATION	WITHDRAWN	TOTAL DURATION IN DAYS	AVERAGE NUMBER OF DAYS FOR A CASE TO BE WITHDRAWN
Mitchells Plain	29	15 830	546
Nyanga	21	8 874	423
Paarl East	30	15 446	515
Worcester	31	5 944	192
TOTAL	111	46 094	415

8.4 FIREARM LICENSING

In the period 2003/2004 to March 2015, 423 801 firearm licenses were issued. The majority of those licenses were in Gauteng 161 919 (38%). In the Western Cape 51 594 (12%) licenses were issued, the second highest number in the country. Like with the national statistics, more firearm licenses were issued from 2010/2011 than in the earlier years of this period. Twenty one percent (10 774) of the firearm licenses were issued in 2011/2012 (Figure, 13).

Figure 13: Firearm Licenses Issued 2004 – 2015 per province⁹⁴



In addition, during the period 2004 to October 2014, over a million and a half firearm renewal applications were submitted to the Central Firearm Registry under the Firearms Control Act. The Western Cape firearm owners submitted 13.7% (209 967) of the total national firearm renewal applications from 2004 till October 2014. Table 12, indicates that 13% of all the renewal applications in the province were for the purposes of self-defence, whilst 15.2% were for the purposes of occasional hunting and sports shooting. Firearm applications were also sought for public collection (12%), such as those displayed in museums, and for private collection (10%). Fifteen percent of renewal applications were submitted for 'other' purposes such as business purposes.

⁹⁴ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

Table 12: Firearm renewal applications: Western Cape⁹⁵

CATEGORY	RENEWAL APPLICATIONS IN THE WESTERN CAPE
Self defence	108 129
Occasional hunting and sports-shooting	76 703
Dedicated hunting and sports-shooting	13 559
Private collection	2 303
Public collection	3
Business purposes	2 688
Other	6 582
TOTAL	209 967

There are currently 97 accredited firearm training providers in the Western Cape that issue competency certificates to firearm applicants (Table 13). These applicants consist of private individuals, state institutions, sports shooters, security companies, etc. There are nine training provider's accreditation application that has been refused and eight training providers accreditation is pending.

Table 13: Accredited Firearm Providers⁹⁶

ACCREDITED TRAINING PROVIDERS	WESTERN CAPE		NATIONAL
Number of accredited training providers	97	15.0%	646
Training providers' accreditation application refused or pending	9	12.0%	75
Number of training providers' accreditation pending	8	11.1%	72

9. CONCLUSION

The Firearms Control Act was brought into effect in 2004, though there is some evidence that the ideas behind the Act had already begin to have some impact earlier, through greater awareness of the need for firearms regulation and oversight. The introduction of the Act coincided with a reduction in serious violent crimes, at least until the period 2009, which many commentators attribute to the introduction of the FCA, though other factors may also have played a role. The reduction of firearm related homicides, compared with the relatively stable number of homicides by other means suggests that the FCA may have had an impact in reducing homicide involving the use of firearms.

From 2010/2011, the national and provincial statistics for crime showed an increase in serious crime that has persisted through to 2013/2014. The use of firearms in the commission of murder and attempted murder also showed a significant increase in this period. It is also in this period that the number of firearms issued nationally and provincially increased, and 20% of firearms licenses that were issued in the Western Cape since the implementation of the FCA were issued in 2010/2011. The simultaneous increase in the number of firearms issued

⁹⁵ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

⁹⁶ Source: National Firearms Registry, received from the national Civilian Secretariat for Police.

together with the increase in serious crimes committed with a firearm also suggests a link between the extent of firearm related crime and the number of firearms in circulation. The Western Cape accounts for 12% of firearm licenses issued in the country since 2004.

Since 2010, serious flaws in the administration of the Central Firearms Registry became apparent, as well as corruption and fraudulent activity among SAPS members responsible for the implementation of the Act, and for control of illegal guns confiscated by the police. That many of those guns might have found their way to the Western Cape, could have contributed to the escalation of gun-related violence in gang-dominated areas on the Cape Flats.

Although the Western Cape contributed to 11.1% of the reported crime where firearms were used as the weapon, the bulk of the Province's contribution came from attempted murder, pointing of a firearm, unlawful possession of a firearm and business robberies.

The study reviewed 300 police dockets to determine the effect of the FCA on crime in the Western Cape in four police precincts, namely Paarl East, Nyanga Mitchells Plain and Worcester. From the limited sample surveyed, it was determined that January, May and June are the months when most firearm-related crime is committed. Weekends and Tuesdays are the days when the most firearm-related crime is committed, mainly between 18:01 and 24:00. The majority of perpetrators were males between the ages of 18 and 35 years.

This study's analysis of the sampled 300 case dockets confirmed that firearms were used to commit a quarter (25%) of the business robberies; 9% of murder, and 14% of attempted murder cases.

Of concern were the long delays in the finalisation of those firearm related matters which did proceed to court. Only 20% of cases examined resulted in conviction. The data indicates that it took on average one and a quarter years to convict a perpetrator, with this period extending up to three and a half years in Nyanga. More than a third of firearm related cases (37%) were withdrawn by the courts.

Despite the intention of the Act, the resource allocation to the FLASH at local police stations and provincial office does not seem to be proportionate to the tasks and functions that the unit needs to perform namely, the administrative process, renewals, safe inspections and interviews, monitoring and reviews in compliance with the Act. The proposed amendments to the FCA appear to have anticipated these problems. The proposed section 124 of the FCA (Draft Firearms Control Amendment Bill, 2015) outlines the specific functions of a Designated Firearms Officer, and provides that, as far as possible, one DFO should be designated at each police station or station cluster (S 124(4)(d)). The amendments envisage

that the DFO will not be responsible for general policing functions, though their responsibilities in terms of the FCA are expanded.

The FCA is an innovative and comprehensive piece of legislation which if implemented effectively, could make a contribution towards reducing the proliferation of gun related crime in the country, as well as in the Western Cape.

10. RECOMMENDATIONS

- a. **Measures to reduce firearm related crimes:** The statistics demonstrate a worrying increase in the numbers of serious crimes, and of firearm related crimes. This calls for an integrated and inter-sectoral response to fully understand the factors contributing to the increase in these crimes, and for measures to address them. There is a need for such measures especially in gang related areas in the Province, and in areas with high murder rates.
- b. **Further research:** Further research is needed to monitor the trends in firearm related crimes, murders and other serious crimes, and to assess whether the extent of these crimes is related to the number of firearms issued and in circulation in the country and the Province. The mortality injury studies have been extremely useful in this regard, and they should continue on at least a five yearly basis. If possible, the studies should determine the different types of firearms used in the commission of homicides.
- c. **Review the issuing of licenses:** The increase in the rate of issuing of firearms from 2009 onwards suggests that different decision making processes allowed for a larger number of licenses to be approved. This process should be reviewed to ensure that the decision making processes were clear and consistent and in keeping with the spirit and letter of the Act.
- d. **Organisational design and the location of the FLASH office:** The FLASH unit should be elevated to a stand-alone unit in each police station reporting directly to the Station Commander with its established niche focusing primarily on firearm application processes, monitoring, inspections and compliance, and the functions associated with Second and Liquor Control. At a Provincial Level, the Provincial FLASH commander should report to the Deputy Commissioner. The functions of these officers could then be linked to their Performance Agreement and be monitored accordingly.

- e. **Adequate Resourcing of the Designated Firearm Officers:** The Designated Firearm Officers' office must be adequately resourced with human resources, suitable vehicles, computers and budget in accordance the gravity of the crimes they deal with, and the scope of their work. Trained DFOs are often used for other policing functions, such as in crime prevention operations within their police precincts. This hampers the effective implementation of the FCA and deprives them the opportunity to focus exclusively to their functions as DFOs;
- f. **Training:** The DFO staff members and assistants must undergo continuous training on the interpretation and implementation of the FCA.
- g. **System integration:** It appears that the Department of Home Affairs and the South African Police Service information system are not structured such that they share data even if the data sharing is in the interest of safety. It is recommended that these two systems must be integrated to expedite information sharing to address the issue of firearm control and ownership.
- h. **Management of the firearms of deceased persons:** Since the Act is silent on stipulating a timeframe in which the executor is supposed to take a decision to keep or dispose of a firearm belonging to a deceased person, it is recommended that the Act be amended and a timeframe be prescribed to address the ownership of the deceased's firearm;
- i. **Unique identification of the guns:** The FCA must be amended to ensure that the gunsmiths in South Africa manufacture guns with micro-dots and ballistics traces so that the gun can be traceable if used for either legal or illegal activities in the country. These amendments have been proposed in the Draft Bill of 2015;
- j. **Career path for the SAPS officers:** The promotion of a DFO to a senior position in the SAPS is an indication of the confidence in the officer in question, but it often deprives the police station of the expertise of a trained DFO. It is recommended that a skills retention mechanism and strategy be developed to allow for a career path for the SAPS members within the DFO environment instead of promoting them to another post level outside the DFO environment.
- k. **Central firearms database:** According to the section 20(10)(a) of the Firearms Control Act 'it is an offence to sell, supply or in any other manner give possession of a firearm or ammunition to a person who is not allowed in terms of this Act to possess that firearm or ammunition.'

Licensed firearm owners must adhere to the Firearms Control Act in terms of the minimum ammunition per person in compliance with section 125(2)(c) which states that the CFR must keep a record of all licensed dealers, manufacturers, gunsmiths, importers and exporters, transporters for reward, accredited institutions, organisations and all firearms and ammunition in their possession. The firearm dealers must keep a register of buyers of firearms and ammunition as per the FCA. It is recommended that an integrated system must be established to link the dealers and the CFR office. The SAPS Provincial office must then monitor the dealers to determine compliance with this Act. The results of this integration are likely to enable the SAPS to trace the source of the ammunition used to commit crime in the province.

There is a need to focus on the control of firearms and ammunition through a functioning and effective national electronic database monitored by the SAPS at the Provincial Level. Though this process is already underway, there is an urgent need to speed up the establishment and national implementation of the central electronic database.

- l. **Declaration of Amnesty:** Section 139(1)(a) and (b) of the Firearms Control Act provides that the Minister may call a firearm amnesty from time to time to allow people to hand in firearms which are in their illegal possession. The current situation in the Western Cape suggests that there is a need for such an amnesty to reduce the circulation of illegally owned firearms, as well as to encourage others to hand in their legal weapons.
- m. **Application process for airguns and the management thereof:** The process of acquiring an airgun or pellet gun should be subjected to the stringent procedures of the Firearms Control Act given that it is possible for airguns to result in serious injury or loss of life. A mechanism must be put in place to control the sale and use of airguns in the province.

ANNEXURE A

CRIME CATEGORY		2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	TOTAL
Murder	Actual reported cases	2 680	2 750	2 881	2 836	2 346	2 274	2 311	2 300	2 580	2 909	25 867
Murder	Firearms used	612	652	774	617	497	428	540	590	797	1 032	6 539
Murder	% Contribution	22.8%	23.7%	26.9%	21.8%	21.2%	18.8%	23.4%	25.7%	30.9%	35.5%	25.3%
Attempted murder	Actual reported cases	2 490	1 856	2 046	1 844	1 766	1 707	2 162	2 328	3 280	3 363	22 842
Attempted Murder	Firearms used	1 772	1 465	1 674	1 493	1 468	1 298	1 614	1 616	2 546	2 593	17 539
Attempted Murder	% Contribution	71.2%	78.9%	81.8%	81.0%	83.1%	76.0%	74.7%	69.4%	77.6%	77.1%	76.8%
Total Sexual Crimes	Actual reported cases	10 498	9 631	8 969	8 623	8 772	9 678	9 299	9 153	8 776	8 062	91 461
Total Sexual Crimes	Firearms used	42	26	18	22	18	16	13	14	14	9	521
Total Sexual Crimes	% Contribution	0.4%	0.3%	0.2%	0.3%	0.2%	0.2%	0.1%	0.2%	0.2%	0.1%	0.6%
CRIME CATEGORY		2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	TOTAL
Common robbery	Actual reported cases	13 283	9 387	8 697	8 578	8 439	9 473	10 399	11 121	12 427	13 140	104 944
Common Robbery	Firearms used	154	121	118	96	81	52	18	30	20	50	740
Common Robbery	% Contribution	1.2%	1.3%	1.4%	1.1%	1.0%	0.5%	0.2%	0.3%	0.2%	0.4%	0.7%
CRIME CATEGORY		2004/2005	2005/2006	2006/2007	2007/2008	2008/2009	2009/2010	2010/2011	2011/2012	2012/2013	2013/2014	TOTAL
Robbery with aggravating circumstances	Actual reported cases	13 143	12 945	15 226	14 555	12 729	12 543	12 250	13 788	16 738	19 526	143 443
* Bank Robbery	Firearms used	2	0	4	6	1	0	0	0	0	0	13
* Business Robbery	Firearms used	79	115	227	598	896	846	1 024	1 194	1 509	1 708	8 196
* Car Hijacking	Firearms used	744	827	760	770	542	446	325	414	602	714	6 144
* Cash-in Transit Robbery	Firearms used	18	50	71	43	32	21	16	12	26	18	307
* House Robbery	Firearms used	163	223	428	481	520	539	495	577	730	846	5 002
* Truck Hijacking	Firearms used	15	9	7	23	23	10	15	27	28	40	197
TOTAL		1 021	1 224	1 497	1 921	2 014	1 862	1 875	2 224	2 895	3 326	19 859
% Contribution (Total of above * marked categories)		7.8%	9.5%	9.8%	13.2%	15.8%	14.8%	15.3%	16.1%	17.3%	17.0%	13.8%

ANNEXURE B

DOCKET DISTRIBUTION PER CRIME CATEGORY AND STATION

CRIME CATEGORY	Mitchells Plain	Nyanga	Paarl East	Worcester	Grand Total	% Contribution
Armed Robbery	34	20	6	16	76	25.3%
Assault	1	1			2	0.7%
Attempted armed robbery	2				2	0.7%
Attempted murder	6	13	11	12	42	14.0%
Common assault	1	6	2	6	15	5.0%
Damage to property			2		2	0.7%
Domestic violence	2	1			3	1.0%
House robbery				1	1	0.3%
Malicious damage to property			3		3	1.0%
Murder	3	12	6	6	27	9.0%
Public violence			1		1	0.3%
Robbery	2	5	3		10	3.3%
Sexual crime	1	2		1	4	1.3%
TOTAL A WHERE FIREARM USED AS A WEAPON TO COMMIT A CRIME	52	60	34	42	188	62.7%
Theft of firearm	8	1	3	1	13	4.3%
Illegal possession of a firearm and ammunition	2		2		4	1.3%
Negligent handling of a firearm	2		1	7	10	3.3%
Pointing of a firearm	5	4	4	9	22	7.3%
Loss of a firearm				1	1	0.3%
Unfit to possess a firearm				1	1	0.3%
Unlawful discharge of a firearm	2			2	4	1.3%
Unlawfull possession of a firearm and ammunition	4	10	31	12	57	25.3%
TOTAL FIREARM SPECIFIC CRIME	23	15	41	33	112	37.3%
TOTAL	75	75	75	75	300	100%