



South African Institute of Race Relations
The power of ideas

222 Smit Street (virtual office)
Braamfontein, Johannesburg
2000 South Africa

P O Box 291722, Melville
2109 South Africa

T. 011 482 7221
info@irr.org.za | www.irr.org.za

Submission from the Institute of Race Relations: Do not ban law abiding citizens from armed self-defense

The South African government, through the Civilian Secretariat for Police Service (CSPS), has announced draft legislation that will seek to do away with the right to lawfully own a firearm for self-defense. The proposed legislation is an assault on the law-abiding citizens of the country that will leave them even more vulnerable to criminal violence.

Half a million people have been murdered in South Africa in the past 25 years according to SAPS data, at a rate several times higher than global norms. The police service has failed and continues to fail to protect citizens. Its members have often been found to be ineffective, corrupt, and themselves engaged in crime. Where the police cannot keep citizens safe, citizens must keep themselves safe. For this, lawful and responsible gun ownership is vital.

International comparisons of violence in South Africa

The best international benchmark from which to compare the extent of safety and security in a community is the murder rate. Data produced by the IRR shows that at the dawn of its democracy South Africa had a murder rate 68/100 000 which means that 68 out of every 100 000 people were murdered every year. By comparison Zimbabwe, the US, and India then had murder rates of 7/100 000, 8/100 000, and 4/100 000, respectively. South Africa's murder rate at that time was therefore very high.

Country	Murder Rate / 100 000 (1995)
Zimbabwe	6.9
USA	8.2
India	4.3
South Africa	68

The trendline after democracy

In its first decade as a democracy, more South African citizens gained the ability to procure and own firearms for self-defense. The murder rate fell from 68/100 000 to 40/100 000 by 2004, almost a 50 percent drop. The relationship between firearm ownership in South Africa and criminal violence has never been firmly established (there are a plethora of other social and economic factors to consider), but with murder as a baseline the broad trend lines of our first decade as a democracy are instructive.

The murder rate bottomed out at just over 30/100 000 in 2011 whereafter it would again begin to rise. What caused it to rise is again subject to such a range of factors.

Stricter gun control

However, a significant development on the legislative front is that in 2004 the South African Government implemented new gun control legislation in the ***Firearms Control Act (FCA)***.

The Act required licensed firearms owners in the country to relicense their weapons over a period of five years. The legislation was billed by the Government as a response to South Africa's high violent crime levels. It was widely hailed by South Africa's anti-gun lobby and even endorsed by the Institute for Security Studies.

Speaking for the government, Superintendent Andrew Lesch said, "The SAPS have been preparing for the implementation of the Firearms Control Act and regulations and I am convinced that we are able and ready to implement the Act". Superintendent Lesch added that preparation included the establishment of a structure for designated firearms officers, the appointment and training of these officers, and equipping them with the resources to deal with all aspects relating to the licensing of firearms.

Misplaced confidence

However, in the period between then and now the Government has been forced to admit that its efforts in relicensing legal guns have been beset by backlogs, delays, and disorder. Earlier this month parliamentarians were taken to task for the disorder that had ensued at the Firearms Control Administration, in stark contrast to the confident, but clearly unfounded, statements of the government in 2004.

Quite why the FCA degenerated into disarray is not immediately clear. In terms of simple administration, relicensing guns that already belonged to licensed owners should not have been substantially more cumbersome than that of issuing identity documents or renewing driving or motor vehicle licenses. A police criminal record check should not take more than a week to complete, interviewing three character-references should take only minutes, and completing a safe inspection should take only an hour. More than 8 million motor vehicles are relicensed annually without too much trouble. Yet the police's bureaucracy has been thrown into chaos in trying to administer the estimated 4.5 million licensed firearms in South Africa.

A law designed to create a shambles

What distinguished this piece of legislation from, for example, the one that regulates the renewal of motor vehicle licenses, is that it was conceived at the outset to be hard to comply with.

It was a law designed to make it difficult to legally own a firearm. Had the law been made to be fair, just and reasonable, to comply with it might would require an exercise of serious responsibility. This would have won the backing of the law-abiding firearm community in South Africa. However, it was from the outset accompanied by threats of prison sentences and the like, creating the impression that every legal hunter and sports shooter in the country was just a step away from being a dangerous felon. Also, the police stubbornly refused to release any guidelines against which they would judge the motivations people gave for requiring a firearm. The proponents of the law may have hoped that the very bureaucratic delays we have seen would themselves serve as disincentives to own a firearm – disarmament via bureaucratic malaise.

A second point that distinguished this law is that it was based more on an ideology than on reason and logic. The ideology prevalent among proponents of the law was very simply that firearms in private hands 'caused' crime and that private gun owners therefore needed to be disarmed.

Spurious sentiment

The sentiment is spurious, yet it remains the motivating sentiment behind the latest proposals, especially those of self-defense. Not all armed societies demonstrate high levels of violent crime. In some cases, Switzerland and Sweden being the most famous, quite the opposite has been true. In South Africa's case the police do not even keep complete records about what kinds of guns, and their origins, were used in the range of crimes. We have never known, for example, to what extent firearms owned by the police and the military are used in house robberies, compared to weapons illegally imported from Mozambique – let alone legally owned hunting rifles. Nor is there any certainty about the actual number of licensed firearms owners in the country or the actual number of licensed guns. The cited figures are at best an estimate based on unsatisfactory police records. As for unlicensed guns and their owners, no reliable data exists. There is also no complete information on incidents where licensed gun owners used guns to protect themselves or other people from criminals. A further point is that mortality data in South Africa does not distinguish between a homeowner shot dead by a robber and a robber shot dead by a homeowner.

Yet despite these significant shortcomings in our common knowledge, the government set about introducing the initial relicensing process and now wants to double down on that with a new set of even more draconian controls that appear to extend so far – if government spokespeople are to be believed – as removing the grounds of self-defense as justification for owning a firearm. Without any substantiating data or evidence to inform such a policy, the only conclusion is that the legislation is motivated on ideological grounds.

In fact, the proponents of the new law had a very easy task – simply demonstrate the extent to which law-abiding hunters, sports shooters, and other firearms owners are responsible for South Africa's high levels of murder, rape, and armed robbery.

Crime rate rose after South Africa's gun control policies were enacted

But more damning is the law's effect on lowering levels of violent crime. In July 2004 Bua News quoted the then safety and security minister Charles Nqakula as saying that South Africa was "sick and tired of ... serious violent crimes committed with firearms, and the Government, through this legislation, has adopted a constructive approach to address this problem"; which is pretty much verbatim how policy makers have sought to sell the most recent Amendment Bill to the country.

The murders committed in South Africa fell by 18% in the five years following 2004 (when the law was enacted) but as we demonstrated earlier, it was in any event in free fall, and had in fact already fallen by an even greater 25% in the five years preceding its implementation and 41% in the previous ten years. However, those crimes most likely to be committed with guns such as armed robberies of houses and businesses increased by over 100% after 2004. The number of car hijackings, committed almost exclusively with guns, also saw an increase. The trend lines in the aftermath of 2004 can easily be used to argue that we are at greater risk of being victims of gun crime than before the Act (but again our cautionary note on complexity of factors apply).

What happened thereafter?

Police statistics for the years 2004/2005 to 2019/2020, show that levels of armed robbery of vehicles, businesses, and homes have increased by 46.1%, 522%, 125% respectively. Instances of murder increased by 13.5% in the same period.

The State wishes, via this latest legislative push, to evade responsibility for South Africa's crime levels via blaming law-abiding gun owners who have passed through some onerous training and background check processes in order to be granted licenses for firearms. If the state can convince the public that rising crime levels are the fault of a third party, then the political and social pressure for it to address actual causes of crime, and pursue actual criminals, will abate to a significant extent. And we would put it to you that this is what the latest draft policy is in aid of – an attempt at reducing the political pressure on the state to do something about crime via blaming lawful gunowners and hoping the public will be fooled.

What about the police?

At and around the time of the enactment of the FCA, the IRR became ever more aware of reports of police officers involved in serious and violent crime and decided to launch an investigation. The IRR did so in the form of a series of reports that it called the *Broken Blue Line* reports, which can be read [here](#). The reports were much reported in the media and led to various engagements with the police right up to the level of a meeting with the national commissioner.

The reports found in essence that:

1. The South African Police Service has been infiltrated by criminal elements.
2. Police officers, often in uniform and in state vehicles, commit significant numbers of serious and violent crimes: from cash in transit heists, to ATM robberies, armed business and house robberies, murders, and rapes.
3. Police officers are seldom held to account for criminal behaviour, with such a small fraction being prosecuted that it leads to suspicions that they are protected from criminal sanction.
4. A significant proportion of police officers have criminal records but remain in the service of the state.
5. Police officers in South Africa are often a serious threat to the safety, lives, and liberty of South Africans.

In the above respects, seeking via the police to disarm law abiding citizens and undermine their rights to use firearms for self-defense is particularly concerning. At the very least it suggests that the State wishes to dodge accountability for a corrupt and criminal police force by fooling the public that the problem lies with law abiding firearms owners, when it in fact lies heavily with the State. If the state can fool the public into thinking that further restrictions on law abiding gun owners will make the country safer, that will buy it the space and time it needs to delay further in acting against criminality and ineptitude in the police.

Related to the above is that the auditor general has found irregularity in the management and finances of the police itself which bodes ill for an institution that is supposed to enforce the law.

State capture and corruption in the government

Related to the extent of criminality in the police is the extent of corruption and criminality in the state. The police force is, of course, a microcosm of the state. Estimates produced by the IRR suggest that more than half of senior ANC leaders, whose party controls the government and is driving this

legislative process, have themselves been implicated in allegations of crime and corruption. The extent of criminality in state structures via the 'state capture' phenomenon has dashed the fortunes, hopes, dreams, and living standards of literally millions of South Africans. It is an extraordinary thing that the government, led by a party itself so deeply implicated in criminality, would engage in a campaign such as this one to stigmatise law abiding South Africans as a root cause of criminality in the country. **It is not the people, but the government who are responsible for the violence and mayhem that play out across South African society.**

What must be done

A state that takes seriously its responsibility to ensure the safety, security, and civil liberties of South Africans would take the following seven steps.

First: scrap the current legislative proposals, as they are a threat to the safety and civil liberties of all South Africans and will simply compound the damage and chaos created by the Firearms Control Act (FCA) of 2004.

Second: draft new firearms control policies, with clear guidelines as to justifications for firearms ownership; that self-defense be one of those justifications; and that the broader administration of firearms provision be privatised via a much simplified, but still rigorous, electronic system that would license properly vetted individuals to own firearms (until such a point as the individuals' circumstances make them unfit), and allow dealers to trade with them, via a national tracking register of firearms.

Third: conduct an audit of all firearms in the country – what firearms there are, where they are, and who owns them, together with a broad amnesty for any lawful owner who has been prejudiced by the aforementioned chaos triggered under the FCA.

Fourth: produce a record-keeping system within the police force to produce data on the type, origins, ownership, and circumstances in which guns are used in crime.

Fifth: remove every criminal officer from the South African police service.

Sixth: improve civilian oversight over the police via strengthening community police forums to vet and appoint police station commanders.

Seventh: introduce a much expanded and better resourced investigative directorate to actively hunt criminal officers within the police.

Collaboration

We at the Institute of Race Relations (IRR) are very eager to collaborate with the Secretariate to secure a more peaceful and freer South Africa. The research at our disposal and the support of the Friends of the IRR are resources upon which the Secretariate is more than welcome to draw. We urge you to begin by not making things worse. Terminate the draft legislation, give South Africans a fighting chance.

Head of Campaigns at IRR,
Proud Citizen,

Gabriel David Crouse
gabriel@irr.org.za