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GUN LICENCES FOR SALE

South Africa's failing
firearms control

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Cover: South African law-enforcement officers attend the wreath-laying ceremony for murdered police lieutenant-colonel Charl Kinnear.
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SUMMARY

The assassination in September 2020 of a South African police detective investigating a guns-to-gangs syndicate involving high-ranking police officers and the police firearms registry has brought into focus the ongoing links between corrupt elements of the South African police and the criminal underworld, and the fraudulent channels through which police-issue firearms have been sold to criminals. It has also reinforced how systemic corruption at the firearms registry has been an ongoing

problem that has subverted the aims of South Africa's Firearms Control Act – legislation designed to prevent the dissemination of firearms in the country, and which, ironically, is implemented by the registry.

This paper examines how the entity responsible for controlling civilian access to firearms became so embroiled in corruption that criminal syndicates have been able to infiltrate the registry and acquire firearm licences.

Key points

- If left unchecked, failing control over firearm licensing will continue to undermine government's ability to fight organized crime.
- There needs to be an inquiry into the systemic corruption that has taken hold within South Africa's Central Firearms Registry.
- The South African Police Service should arrange an independent audit of firearm licences issued.
- The police service should establish an intervention team tasked with developing and implementing an effective turnaround strategy at the firearms registry.

ACRONYMS

AGSA	Auditor-General of South Africa
CFR	Central Firearms Registry
CSP	Civilian Secretariat for Police
DFO	Designated Firearms Officer
EFRS	Enhanced Firearms Register System
FCA	Firearms Control Act
ICT	information and communication technology
SAPS	South African Police Service



INTRODUCTION: FIREARMS CONTROL IN SOUTH AFRICA

The assassination of a leading Western Cape policeman investigating a 'guns-to-gangs' scandal involving senior cops and gangsters has brought into sharp focus the chaotic administration, ineptitude and endemic corruption that has bedevilled South Africa's police Central Firearms Registry (CFR) for the past 16 years.

Lieutenant-Colonel Charl Kinnear, a section commander at the Western Cape Anti-Gang Unit, was shot and killed outside his home in Bishop Lavis, a suburb of Cape Town, on 18 September 2020. Five days later, police arrested a former professional rugby player and bouncer, Zane Killian, at his home in Springs, in Gauteng in connection with the killing. Killian was charged on 25 September with murder, conspiracy to commit murder, and the illegal interception of communications.

Killian, who owns a tracking and investigation company, also operates as a debt collector for Cape Town underworld figure Nafiz Modack. He is accused by the state of unlawfully tracking Kinnear's cellphone between March and September 2020, including on the day on which Kinnear was assassinated, and passing that information on to the former detective's killers.

At the time of his assassination, Kinnear was involved in investigating a large guns-to-gangs syndicate that involved key underworld figures, including Modack. According to an affidavit drawn up by Kinnear, these individuals were colluding with certain officers at police stations as well as their colleagues at the CFR to obtain firearm licences unlawfully and irregularly.¹

Officers of the Police Anti-Gang Unit outside court during the hearing of Zane Killian, charged with the murder of Police Lieutenant-Colonel Charl Kinnear on 18 September 2020.

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Murder accused Zane Killian is escorted into Cape Town Magistrate's Court.

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Prior to his assassination, Kinnear had been instrumental in the arrest of 26 people, including high-ranking police officers and Cape Town-based criminal kingpins. The 26 were arrested following an investigation led by the Anti-Gang Unit in the Western Cape. It was found that certain underworld figures, and their family members and friends, had allegedly obtained firearm licences unlawfully as well as temporary authorization permits to possess firearms. Police officers at a number of Gauteng police stations as well as officials from the CFR were among members of the South African Police Service (SAPS) arrested as part of this investigation.²

It became clear that these arrests were just the tip of the iceberg and that the investigation was far from over. At the end of October 2020, Kinnear's colleagues arrested two SAPS Brigadiers for their involvement in the same network.³ The arrest of these two senior police officers brings to 28 the number of people arrested, 15 of whom were serving members of the police.

While the assassination of Kinnear and its possible link to the work he was doing regarding firearm corruption has been covered extensively in South African media, this is not the first time that the way in which the police service has implemented the Firearms Control Act has been in the spotlight. Over the last decade, there have been numerous allegations, reports and cases of corruption involving CFR officials and their counterparts at the local police station level. The sheer volume of allegations, coupled with the involvement of police officers at different levels, would imply that the problem of corruption at the CFR is an ongoing problem and one that is systemic in nature.

Gun control legislation and the Central Firearms Registry

The South African government's Firearms Control Act (Act 60 of 2000) replaced the old 1969 Arms and Ammunition Act. It was passed by Parliament in 2000 and put into operation in 2004. The new Act, which was based on consultations involving both pro- and anti-gun lobby groups, brought South African gun legislation in line with international norms and best practices, and is considered to be a solid piece of legislation.

Under the Act, the designated regulatory authority is the National Police Commissioner, while the CFR (a body established under the Act within the SAPS) administers and implements the legislation. At the police station level, a Designated Firearms Officer (DFO) is appointed by the Registrar of the CFR to carry out local-level functions of the CFR.

The implementation of the Firearms Control Act was intended to address a number of key issues and risks, including:

- preventing the proliferation of small arms in the country (especially handguns and assault rifles);
- encouraging responsible firearm ownership;
- addressing, through the CFR, the integrity of data captured on firearm ownership, so that the authorities can accurately track people who possess legally registered firearms;
- ensuring people in possession of firearm licences have the necessary competency and proficiency to own such a firearm; and
- putting in place stringent substantive and procedural limitations on obtaining firearms.

In November 2010, six years after the Act had been implemented, the then Minister of Police, Nathi Mthethwa, addressed the media on the functioning of the CFR. 'Our success or failure in fighting crime,' said the minister, 'is to a large extent, dependent on how effectively managed [the CFR] is. ... Its effectiveness cannot be compromised.'⁴

'The CFR currently acts as a bottleneck in our crime-fighting initiatives.' –
Former police minister



It is possible that Kinnear's assassination was linked to the work he was doing to uncover firearm corruption.

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A gun confiscated from a 24-year-old allegedly affiliated with a Cape Town gang. The South African authorities have admitted that the firearms-control regime is plagued with problems. © Bishop Lavis police station via Facebook

Mthethwa added that the 'current state of affairs at the CFR is far from what and how it is supposed to be'. He emphasized that, 'If we are serious about reducing crime, instead of serving as an additional arsenal to our mission, suffice to say the CFR currently acts as a bottleneck in our crime-fighting initiatives.'⁵

These concerns continued. Five years later, in May 2015, the then Deputy Minister of Police Makhotso Soty, speaking at a firearms summit hosted by the Parliamentary Portfolio Committee on Police, said: 'I am very sad to say today that, with the billions that the SAPS gets every year from Government since 1994, we are still plagued with the same problem of a Central Firearms Registry that is dysfunctional and in constant decay!' Soty added that what she had seen at the CFR was 'horrendous' and that it was obvious that the CFR had 'not been a priority for a long time'.⁶

The criticism of the CFR did not stop there. During a presentation by the SAPS of its 2018/19 Annual Report to the Parliamentary Portfolio Committee on Police, the committee raised serious concerns about the CFR's ability to process firearm applications effectively.⁷ Later, in July 2019, the report of the Portfolio Committee on the Police Budget Vote and Annual Performance Plan for 2019/20 alarmingly referred to the CFR's continuous underperformance over the years as being mostly due to the virtual collapse of the CFR system.⁸

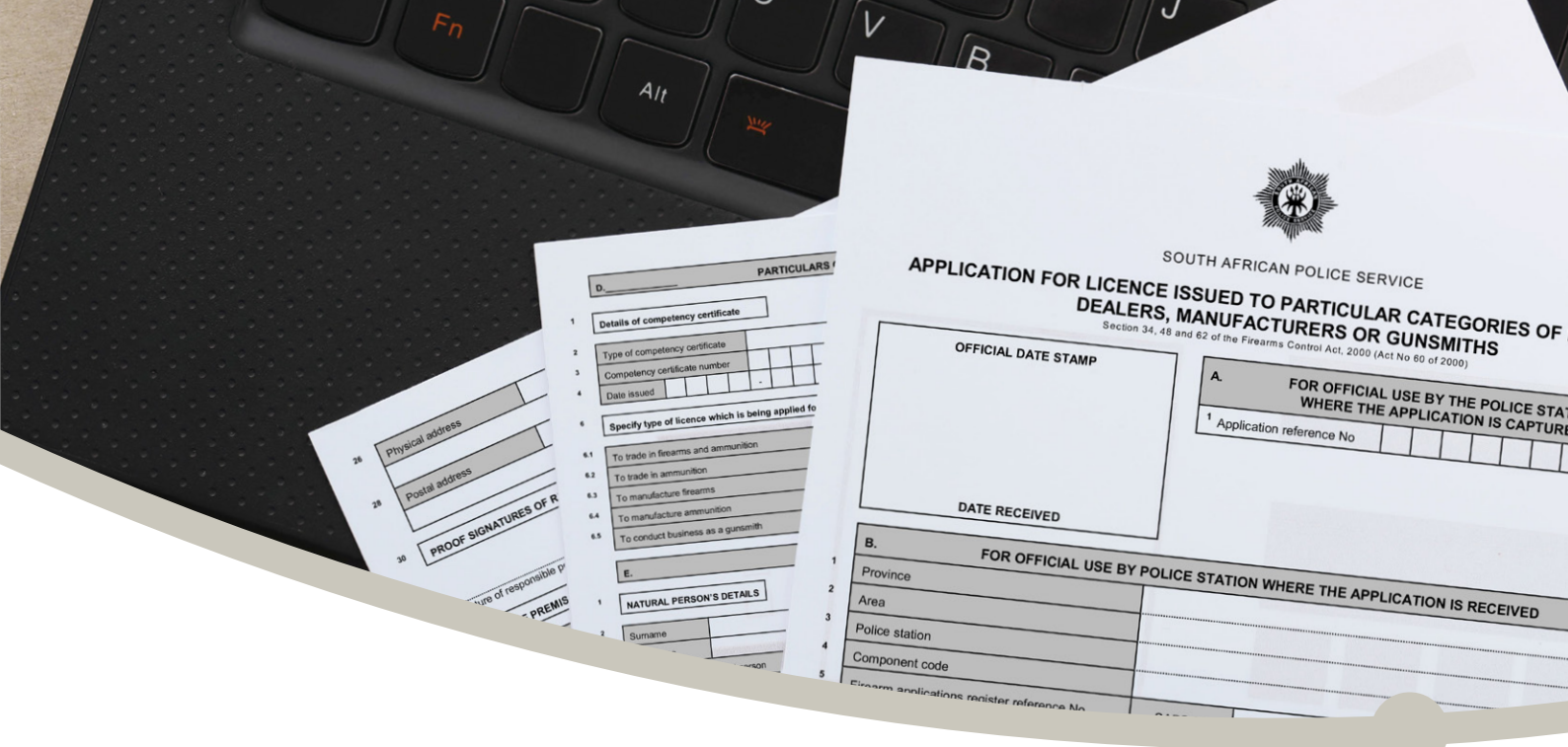
This paper examines how the implementation of the Firearms Control Act, such an important piece

of legislation for South Africa, became ineffective. It looks at how the CFR, the very entity responsible for controlling civilian access to firearms, has underperformed, and become so embroiled in systemic corruption and maladministration that criminal syndicates have been able to infiltrate the registry and acquire firearm licences.

When the Act was first passed by Parliament in 2000, a budget of R63.1 million was allocated to the police to implement it.⁹ The police service has argued that part of the problem they face with firearms control is that – besides this initial implementation cash injection – there is no ring-fenced budget for the CFR.

Nevertheless, a significant amount of money has been spent by the SAPS on the CFR. According to a report compiled by the Civilian Secretariat for Police (CSP), immediately after the Act became operational in 2004 the police received a budget in the region of R280 million for this purpose. The report also states that between 2007 and 2009, an additional sum of more than R307.9 million was spent on the CFR and the IT systems linked to it.¹⁰ The Auditor-General of South Africa (AGSA), during its audit of SAPS in 2014, also recorded R343 million being paid out by SAPS for the CFR IT system.¹¹

Yet, despite these considerable sums of money that have been spent on systems at the CFR, the administration of firearms by the registry still remains a serious risk.



LICENCES FOR SALE: SYSTEMIC CORRUPTION AT THE CFR

The arrest of 16 people, including 10 police officers, by Kinnear and members of the Anti-Gang Unit in July 2020 was not the first time officers linked to the CFR have been implicated in corruption. During a 2010 media briefing, the Minister of Police referred to concerns over irregularities in the issuing of firearm licences. The minister highlighted the need for an investigation to root out corruption at the CFR.

Three years after that briefing, 18 CFR officials, including the then head of the registry, Brigadier Mathapelo Miriam Mangwani, were served with letters of immediate suspension related to their alleged involvement in fraudulent issuing of firearm licences. According to evidence presented by the SAPS during an internal disciplinary hearing, Mangwani was known to have received payments of between R5 000 and R10 000 twice a month for more than four years – money that she received from a single firearm dealership. Mangwani was found guilty and is no longer a serving SAPS member. Four of the co-accused resigned after receiving suspension letters, and ten were able to return to work after either being found not guilty or being issued with letters of warning by the SAPS.

Linked to this case, the DFO at the Pretoria Central Police Station, Captain Lawrence Mamogobo, was found guilty in 2015 on 30 counts of corruption, and sentenced to 13 years' imprisonment. The court found that Mamogobo had been involved in selling falsified training and competency certificates as well as issuing false firearm licences.

Since 2014, police detectives have suspected that gang members have been able to acquire firearm licences fraudulently through certain police channels.

‘People at the CFR would tell the person wanting the licence which station to send their application through.’

Guns to gangs

In 2014, a group of police detectives in the Western Cape, who were part of an operation codenamed Project Combat, which was aimed at disrupting and dealing with gangs and gang leaders, began to suspect that certain gang bosses were able to acquire firearm licences through fraudulent channels. The detectives began closely investigating any gang leaders they suspected of attaining firearm licences for either business or personal reasons.¹²

As part of their investigations, they looked into firearms in the possession of Ralph Stanfield, an alleged gang leader. Their investigations revealed that Stanfield had five firearm licences, all of which had been issued within just three days of the application being made. In addition, detectives found Stanfield had used these licences to purchase a large amount of ammunition.¹³ The investigation also found that Stanfield had acquired his licences not through his local police station in the Western Cape but through the Olifantsfontein Police Station in Gauteng province. Section 9 of the Firearms Control Act states that an application for a firearm licence and a competency certificate should be made in the area where the applicant resides, or where the business of the applicant is or will be situated.

In June 2014, Stanfield and his then girlfriend, Nicole Johnson, and his sister Francesca were arrested. At around the same time, the team of Project Combat detectives raided the CFR, following which three police officers in the employ of the CFR in Pretoria – Priscilla Mangyani, Billy April and Mary Cartwright – were arrested. The three are alleged to have been involved in a syndicate that worked with others at the CFR to issue gun licences based on fraudulent applications.

At the time of these arrests, a senior police officer involved in Combat said that the police had analyzed hundreds of gun licences and identified several individuals and companies who had apparently benefited from the syndicate by receiving firearms licences fraudulently, and that others were also being probed as part of the syndicate.¹⁵ According to this police investigation, between May and June 2014 the three CFR police officers suspected of helping to fraudulently facilitate the licences for Stanfield were also thought to be involved in the destruction, or rather the disappearance of documents related to Stanfield and his associates’ firearm applications.¹⁶

The state provisionally withdrew the charges against the three police officers, Stanfield, and his sister and Nicole Johnson in October 2016, but subsequently reinstated them in April 2018. In addition, 17 others were also charged with being part of the same syndicate. These 23 individuals now face, collectively, 109 charges, including fraud, racketeering and unlawful possession of firearms.

In 2015, the same group of Western Cape police detectives arrested Gauteng-based police colonel Christiaan Prinsloo for his involvement in supplying guns from the police armoury to gangs in the Western Cape. Prinsloo appeared in the Bellville Magistrate’s Court, where he pleaded guilty to 11 charges of racketeering, corruption and money laundering. Prinsloo was sentenced to 18 years’ imprisonment.¹⁷



Ralph Stanfield, an alleged gang leader, and his wife, Nicole. Investigations found that Stanfield had acquired several firearm licences without following regular procedures. © Gallo Images

At the time of his arrest, Prinsloo had a close relationship with officials at the CFR, and was frequently called on to attend CFR briefings and public forums. DFOs based at police stations in Gauteng reported to Prinsloo, who was also head of the Germiston police armoury. Prinsloo, who was widely considered to be a firearms expert by his colleagues in SAPS, was also the SAPS go-to man on firearms in Gauteng. Ironically, Prinsloo would often be called on by the CFR to investigate irregularities and corruption involving dealers, civilians and SAPS members.

Much of the publicity surrounding Prinsloo's arrest focused on his involvement in facilitating the supply of guns stolen from police armouries and stores to gang bosses and leaders in the Western Cape. However, the investigation into his activities also revealed that Prinsloo had used his position in the

police service to secure firearm licences for people who should never have been allowed to possess weapons. These licences were issued to gangsters and other criminal elements as well as to security companies, some of whom were allegedly linked to or working for criminal networks.¹⁸

A senior police officer, explained how this worked: 'Applications would flow through identified local police stations and then run through the CFR. The local station would be the lowest level in rung, and often people at the CFR would tell the person wanting the licence which station to send their application through.'¹⁹

At the time of writing this paper, it came to light that Prinsloo had been paroled in April 2020 after just four years of serving his sentence, despite his very serious convictions. He had reportedly been seen in Gauteng.²⁰

Officers at particular police stations would reportedly rely on their links with people at the CFR who could ensure that licences were approved.

The arrest of the 16 by the Anti-Gang Unit in June 2020, a few months before Kinnear's assassination, was not an isolated incident. It was part of a three-year investigation that was launched in 2017, when police were following up on information that certain key underworld figures were colluding with police officials at the CFR and DFOs at local stations to procure firearm licences unlawfully.

As part of this investigation, in November 2017 police seized nine firearms registered to Modack, the licences for which were suspected of having been obtained unlawfully. In June 2020, Modack was among the 16 arrested for his alleged involvement in gun-licensing fraud. Less than a year before his arrest, his wife, Riana Modack, and three others were also arrested in Cape Town in October 2019. They were subsequently charged with fraud and corruption linked to their suspected involvement in obtaining firearm licences. As in the Stanfield case, the suspects, who resided in Cape Town, had travelled to police stations in Gauteng to apply for their licences.

Even before the Western Cape detectives had started their investigation into the fraudulent issuing of firearm licences, there was widespread non-adherence to this provision of the Act (whereby the applicant must apply through his or her local police station), by both the police and people involved in corruptly acquiring licences. Interviews conducted with a number of firearm associations revealed that it has been common knowledge for some time that people often travel to specific stations outside of their area of business or residence to apply for firearm licences and competency certificates.²¹ The reasons given for this were that there were police officers at specific stations who were known to accept bribes to facilitate the licensing process. During these interviews, certain police stations in Gauteng were most commonly cited as being the stations where, for the right price, firearms licences could be facilitated. In these instances, the licence would be approved within a matter of days. Officers at these particular police stations would reportedly rely on their links with people based at the CFR who could ensure that the licences were approved and issued.

It is a stark irony with a double twist: more than a decade of corruption at the local police station level and the CFR surrounding the issuing of firearm licences has not only undermined the key objective of the Act – to control firearm proliferation in the new South Africa as the country emerged from apartheid – but has also enabled dangerous criminal elements to acquire firearms. What's more, once in their possession, these fraudulent licences enable the same criminals to access large amounts of ammunition.²²



SYSTEMS FAILURE: ICT INFRASTRUCTURE AND THE CFR

It is generally accepted that accurate record keeping is a cornerstone of effective firearms control. For it to be effective, it is necessary to keep records that enable the tracking of guns throughout their lifecycle.

One of the key objectives of the Firearms Control Act was to ensure a database was established at the CFR that would provide an accurate and comprehensive picture of who owns which firearm, and when the licence is due for renewal. A core function of the CFR is to keep such records, which need to be updated should the firearm change hands at any stage. To meet the needs of this provision, the SAPS developed what became referred to as the digital Enhanced Firearms Register System (EFRS) and in September 2004, SAPS signed a contract with ICT company Waymark to develop and implement the system. The contract also entailed training SAPS members on how to use the system.

The contract price for this service was R93 million and the deadline for handover of the system was stipulated as being 5 July 2006. However, between March 2005 and February 2007 various addendums were signed by SAPS and Waymark, which not only pushed back the handover deadline several times but also increased the contract value. In the end, the contract fee escalated to R412 million, and by 2014 the police had paid R343 million to Waymark for a system that had still not been fully implemented.

Lack of a functional ICT system and database at the CFR has meant reliance on manual firearm licence applications, which has exposed the licensing system to malpractice and manipulation. © Taylor Vick via Unsplash

Waymark had their contract with SAPS cancelled and the police launched an internal investigation into the arrangement. Although it is not clear what became of this investigation, the AGSA, during its audit of SAPS, said that the delayed deadlines and escalating costs provided a solid basis to hold certain individuals and Waymark accountable.²³

Misinformation technology

The chaos surrounding the Waymark contract and the ICT systems at the CFR has had the effect of the police having to rely on manual systems to issue firearm licences. Speaking at the Portfolio Committee on Police in 2015, senior police officials admitted that an electronic filing and database system was not being fully used, resulting in large volumes of paperwork.²⁴ The continued reliance on manual systems not only makes it virtually impossible for the SAPS to provide completely accurate and up-to-date data on all licensed firearms issued, but has also exposed the CFR to vulnerabilities, including manipulation of information captured on the system by officials. It also allows duplicate guns to be registered on the system and errors where guns are incorrectly registered on the system.²⁵

In 2013/14, the AGSA noted that although the SAPS, in its annual report, claimed that it had finalized 96 per cent of the more than 250 000 firearm licence applications, the AGSA could not confirm this assertion because 54 per cent of the applications could not be made available to the AGSA for auditing.²⁶

Furthermore, during the initial investigations into Prinsloo by the team of detectives, it was found that firearm licences could be manipulated on the system, and licences could even be issued for firearms that had been part of stock destined for destruction or for fully automatic firearms (licences for which are limited by law for specific use).

The detectives also found that, in some instances, a licence would exist on the system but the actual paper file would not exist, thus making it impossible to trace who was involved in issuing these licences. Adding to the problem, detectives found that different officials at the CFR were able to log on to the system using passwords issued to other officials.

The ease with which the system could be manipulated was such that when police raided a certain gun dealer in Johannesburg (after it came to light that Prinsloo was linked to firearm licences supplied by the same dealer), officials at the CFR were actually manipulating the system while the raid was taking place. As one senior police officer involved in the investigation described the incident, as the police were conducting the raid, someone at the CFR was changing details of guns linked to the dealership on the police system at the CFR.²⁷

It is not only the EFRS that is a problem. The Firearms Control Act also makes provision for an electronic system to operate between firearm dealers and the SAPS through electronic connectivity. With this system, dealers would be able to upload their firearm stock (and any changes in stocks) with the CFR. This connectivity in real time was aimed at ensuring the SAPS had accurate, up-to-date information on

firearms held by dealers and gun shops. However, 16 years after the FCA came into operation, this system is still not operational and dealers still have to submit their stock information manually to the CFR. The situation is made more complicated by the fact that firearm dealers do not have easy access to what police have listed as being on their stock.

Ghost stock

The lack of an digitalized system to connect gun dealers efficiently with the CFR has given rise to the dealers having to submit all new firearm stock they receive manually on documents referred to as SAPS 350 forms. SAPS officials then manually capture the information supplied on these forms on their system. However, the SAPS has a backlog in capturing this information in their manual processes.

The Act stipulates that, in order for a firearm to be licensed by the SAPS, its origins must be able to be tracked. However, a number of dealers have raised concerns that the submission process, which necessitates manually inputting information onto SAPS 350 forms, is open to being manipulated by corrupt police officers, who could list what is referred to as 'ghost stock' under a dealer's name and then license this ghost stock without the dealer being aware of it. One dealer confirmed the risks posed by such ghost stock:

Dealers battle to get access to records of what the CFR has listed as stock for that particular dealer. A dealer could submit a SAPS 350 form listing, say, ten new weapons acquired by a dealer. The police could then, after receiving the 350 form, add other firearms to it – without the dealer's knowledge. Therefore, there could be ghost stock listed under a dealer's name and because the SAPS don't give us access to what they have registered under our stock, we might never know. This enables corrupt SAPS officials to license illicitly acquired firearms, such as firearms stolen from police stores.²⁸

A Johannesburg lawyer who represents gun dealers believes that there are few, if any, gun dealerships in the country whose records match those held by the CFR.²⁹ These inconsistencies not only provide an opportunity for corrupt police officers to manipulate the SAPS 350 forms and fraudulently license firearms, but they could also be used by unscrupulous dealers to sell firearms without following proper licensing protocols. Furthermore, if they are caught, such dealers might well argue that the SAPS records were incorrect.

The inability – or perhaps unwillingness – on the part of the police service to implement an accurate electronic IT system connecting dealers with the CFR has been of such a concern to firearm dealers that the South African Arms and Ammunition Dealers Association (a firearms trade lobbying organization) took the SAPS to court to compel the CFR to implement this connectivity. The court has now given them a deadline of July 2022 to ensure this system is in place and fully operational.



LACK OF ACCOUNTABILITY AND TRANSPARENCY AT THE CFR

South Africa's Minister of Police Bheki Cele. Lack of police will to fix problems at the CFR over the years has left South Africans vulnerable to gun crime.

© Gallo Images

It is not only the lack of a functional technology management system that has compromised the CFR (and stymied the proper implementation of the Act). Lack of transparency and accountability in the functionality of the CFR has also allowed corruption to flourish. Over the years, various firearm-related professional bodies, entities and associations have bemoaned the CFR's track record of refusing to provide information to the public regarding decisions made by the registry and policies in use at the CFR. Protocols and procedures are shrouded in secrecy, and not open to public scrutiny.

This, coupled with inconsistencies in decision-making at the CFR, has not only exposed the SAPS to avoidable litigation and appeals, but has also contributed to corruption and manipulation – because the registry's policy of non-transparency means that decisions made regarding licensing processes are not explained or justified. As one dealer put it, this lack of transparency surrounding the functioning of the CFR 'means that we cannot really estimate the true extent of corruption because decisions cannot and are generally not questioned'.³⁰

To make matters worse, the SAPS have adopted what could be described as a laager mentality in relation to the implementation of the Act. To illustrate, they not only believe that they are the only people who really understand what is demanded by the Act, but also refuse to properly and openly engage with the firearms fraternity. This approach has pitted the SAPS against the firearms trade (including those who genuinely accept the need for the Act), while the lack of accountability and transparency at the registry has allowed corruption to fester.

Empty promises of a turnaround strategy

In 2010, when the police minister conceded to the media that the CFR was an impediment to the state's crime-fighting efforts, he informed the public that an intervention team would be established to develop and implement a turnaround strategy for the CFR. Seven years (and two ministers later), it was announced at a press conference that part of the police ministry's plan would involve monitoring a turnaround strategy for the CFR.

Since 2010, the SAPS has, during numerous presentations made to Parliament, referred to a CFR turnaround strategy in various stages of completion. In its report on the SAPS 2019/20 budget and annual performance plan, the Parliamentary Portfolio Committee refers to SAPS in 2019 giving priority to the turnaround strategy for the CFR, with a divisional commissioner restarting the process.³¹ If this statement is accurate – and there is no reason to doubt it – as a decade has passed since the police first committed to a turnaround strategy for the registry, one can only conclude that it has never really been a serious priority.

All the more so because, despite the police service's continual references to a turnaround strategy for the CFR, its inability to effect change through this strategy is obvious, in that little has changed since the minister voiced his concerns back in 2010. In fact, one person who has tracked the progress of the implementation of the Firearms Control Act since 2004 believes that, since 2010, the situation at the CFR may well have deteriorated.³²

In 2010, Minister Mthethwa referred to the need for the intervention team responsible for the turnaround at the CFR to consult with other teams who had been involved in similar strategies at other government departments, such as the Department of Home Affairs and the South African Revenue Service. Unfortunately, the belief that seemingly prevails in the police service that only they understand what is required for the registry, coupled with their non-consultative, inward-focused approach means the SAPS lost a good opportunity to engage with experts who would have been able to help implement an effective turnaround strategy.



CONCLUSION

South Africa's minister of police said government is trying to deal with the problem of firearms circulating in the underworld. © Shaun Swingler

A primary objective of introducing South Africa's Firearms Control Act was to usher in a new era of firearms control in the newly democratized country. The Act was also supposed to be an effective part of government's toolkit in the fight against firearms violence and gun-related crime – especially after the bloodshed witnessed during the country's transition period. Regrettably, the Act has failed to achieve these laudable goals. Instead, systemic corruption, together with the police's inability to resolve problems at the CFR, has enabled criminal elements, including organized-crime, to exploit ongoing weakness in the SAPS's implementation of the Act and to acquire firearms fraudulently. The same underworld figures whom the Act was intended to control by denying them firearms have been able to acquire weapons over a number of years.

After he visited the home of Kinnear following after his assassination, the Minister of Police, Bheki Cele, said the government was trying to deal with the problem of firearms circulating in the underworld and referred to an amendment bill to the Firearms Control Act as being part of government's approach.³³ The reality is that amendments have been on the agenda for more than six years and although they will enhance and clarify certain aspects of the Act, they will not solve South Africa's problem of firearms control. This is because the problem lies not with the legislation itself but with the failure of the police service to implement the legislation properly – failure that is epitomized by a dysfunctional CFR, and by certain corruptible DFOs. The amendments Cele referred to are important in terms of strengthening the legal framework, but they will not solve the problem of underworld access to firearms as long as South Africa's police service continues to mismanage its firearms control systems.

The SAPS has had 20 years to implement the Firearms Control Act of 2000. However, the situation at the CFR and the police service's approach to implementing the Act mean that the service has failed to reduce or monitor the number of guns in circulation. These failures – and the lack of police will to resolve the crisis – have, over time, left South Africans more vulnerable to firearms ending up in the hands of criminals. What is required now is for the SAPS to acknowledge its own problems in administering the Act, and admit the

weaknesses and limitations in its approach to fixing the problems at the CFR and at the local station level.

The police service also needs to acknowledge that the problems at the CFR are not a matter of a few rotten apples tarnishing its reputation, but are indicative of systemic corruption enabled by SAPS's poor implementation of systems and policies. The problem is also bigger than SAPS, and if left unchecked will continue to undermine the government's ability not only to fight crime, but in particular organized crime.

Addressing the problem

To tackle these problems, there are a number of critical steps that need to be taken as a matter of urgency.

- **Conduct an independent audit into firearms issued**

Firstly, the SAPS needs to ensure that there is a full, independent and impartial audit of firearm licences issued. Although this will undoubtedly be an onerous process and the scope of the audit may need to specify the time frame that the audit will cover, such an audit will be crucial in ascertaining the true extent of criminal infiltration in the licensing process.

- **Inquiry into systemic corruption**

Together with an audit, the SAPS needs to agree to an impartial and independent inquiry into the systemic corruption that has taken hold within the CFR (including the role played by DFOs). The inquiry should focus not just on the individuals involved in the corruption at the registry, but also the conditions that have allowed this corruption to flourish. The inquiry would also need to be supported by senior people in the police service who will take the necessary action to uphold the aims of the inquiry. The detectives who have been involved in some of the recent investigations into fraud and corruption at the CFR would be good candidates. However these detectives need the support, resources

and protection to ensure they are able to complete their task. In addition, the findings and recommendations of the inquiry should not be treated as suggestions: there must be an obligation on the part of SAPS to act on the inquiry's findings and recommendations.

- **Establishment of an intervention team**

The SAPS needs to return to and embrace the 2010 commitment to establishing an intervention team tasked with developing and implementing an effective turnaround strategy. For such an intervention team to be effective, the SAPS needs to acknowledge that the service has been unable to implement such a strategy in the last ten years and impartial experts will be required to form part of the team. The team will not only have to have the buy-in of SAPS management, but also be able to interface with the inquiry into the systemic corruption at the CFR.

- **Ensuring transparency and accountability**

The SAPS must acknowledge that its 'we know best' and 'go-it-alone' attitude and approach to the implementation of the Firearms Control Act has not worked. The police also need to acknowledge that their lack of transparency and accountability with regard to the administration of the Act has been a significant contributing factor to the development of systemic corruption at the CFR.

NOTES

- 1 Philane Nombembe, Gangs gun bonanza, *Sunday Times*, 27 September 2020, <https://www.timeslive.co.za/sunday-times/news/2020-09-27-top-cop-charl-kinneer-was-close-to-cracking-guns-to-gangs-syndicate-before-murder/>.
- 2 Jenni Evans and Riaan Grobler, Nafiz Modack, cop and one other accused granted bail in massive gun licence fraud case, *News24*, 17 June 2020, <https://www.news24.com/news24/southafrica/news/nahez-modack-cop-and-one-other-accused-granted-bail-in-massive-gun-licence-fraud-case-20200617>.
- 3 Vincent Cruywagen, Slain cop Kinnear's unit arrests two SAPS station commanders for firearm licence corruption, *Daily Maverick*, 27 October 2020, <https://www.dailymaverick.co.za/article/2020-10-27-slain-cop-kinneers-unit-arrests-two-saps-station-commanders-for-firearm-licence-corruption/>.
- 4 Remarks by Minister of Police, E.N. Mthethwa, MP to the National Press Club on the current challenges affecting the SAPS firearms application and licensing processes, Pretoria, 2 November 2010.
- 5 Ibid.
- 6 Remarks by the Deputy Minister of Police, Hon. Ms Makhotso Magdeline Sotyu (MP) at the National Firearms Summit 2015, Cape Town, 25 March 2015.
- 7 Budget Review and Recommendation Report of the Portfolio Committee on Police on the 2018/19 Annual Report of the South African Police Service (SAPS), 16 October 2019, ATC191017, <https://pmg.org.za/taled-committee-report/3944/>.
- 8 Report of the Portfolio Committee on Police on the 2019/20 budget vote 23, Annual Performance Plan of the Department of Police (SAPS), 9 July 2019, ATC190709, <https://pmg.org.za/taled-committee-report/3857/>.
- 9 Report of the Parliamentary Committee on Police on the National Firearms Summit Held 24/25 May 2015, ACC/50716.
- 10 Civilian Secretariat for Police, Assessment into the functioning of the Central Firearms Registry and the implementation of the Firearms Control Act, 2010 (as contained in the presentation by Martin Hood to the Portfolio Committee on Police, 3 June 2015).
- 11 Daniel Knoetzer, SAPS R400 million firearm control system in shambles, *Mail & Guardian*, 18 October 2014.
- 12 Interview with senior police officer, Cape Town, 16 August 2018.
- 13 Ibid.
- 14 Nicole Johnson, who is the mother of Stanfield's children, subsequently married Stanfield in July 2014.
- 15 Caryn Dolley, 'Police gave guns to gangs', *Weekend Argus*, 28 September 2014, <https://www.iol.co.za/news/police-gave-guns-to-gangs-1756940>.
- 16 Caryn Dolley, Cops destroy documents in guns to gangs case, *News24*, 4 May 2018, <https://www.news24.com/news24/southafrica/news/cops-destroyed-documents-in-guns-to-gangs-case-more-allegations-20180503>.
- 17 More details about this case will be revealed in a forthcoming book by Mark Shaw, *Give Us More Guns*.
- 18 Interview with senior police officer involved in the Prinsloo investigation, Cape Town, 16 August 2018.
- 19 Interview with Senior Police Officer, Cape Town, 19 April 2018.
- 20 See Marianne Tham, Top cop sentenced to 18 years for flooding Cape Flats with illegal guns is out on parole after four years, *Daily Maverick*, 16 October 2020, <https://www.dailymaverick.co.za/article/2020-10-16-officials-mum-top-cop-sentenced-to-18-years-for-flooding-cape-flats-with-illegal-guns-is-out-on-parole-after-four-years/>.
- 21 Interviews conducted with various firearm associations and professional bodies, July 2019 to February 2020.
- 22 A licensed firearm holder is allowed to purchase up to 200 rounds of ammunition from a firearm dealer and if, as was the case with Stanfield, the person has more than one licence they are able to purchase 200 rounds for each additional firearm.
- 23 Daneel Knoetzer, SAPS R400 million firearms control system in shambles, *Mail & Guardian*, 18 October 2015, <https://mg.co.za/article/2014-10-18-r400-million-firearms-control-system-in-shambles/>.
- 24 Portfolio Committee meeting on progress at the CFR, 3 June 2015, PMG, <https://pmg.org.za/committee-meeting/21014/>.
- 25 Interview with gun dealer, Pretoria, 7 May 2018.
- 26 Daneel Knoetzer, SAPS R400 million firearms control system in shambles, *Mail & Guardian*, 18 October 2015, <https://mg.co.za/article/2014-10-18-r400-million-firearms-control-system-in-shambles/>.
- 27 Interview with senior police officer, Cape Town, 19 April 2018.
- 28 Interview with Andrew Sauter, Johannesburg, 26 April 2018.
- 29 Interview with Martin Hood, Johannesburg, 4 May 2018.
- 30 Interview with registered firearm dealer, Johannesburg 5 May 2018.

- 31 Report of the Portfolio Committee on Police on the 2019/20 budget vote 23, annual performance plan (APP) of the Department of Police (SAPS), 9 July 2019, ATC190709, <https://pmg.org.za/tailed-committee-report/3857/>.
- 32 Interview with researcher and member of an anti-gun grouping, Johannesburg, 21 June 2019.
- 33 Philane Nombembe, Gangs gun bonanza, *Sunday Times*, 27 September 2020, <https://www.timeslive.co.za/sunday-times/news/2020-09-27-top-cop-charl-kinnear-was-close-to-cracking-guns-to-gangs-syndicate-before-murder/>.



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