



South African musician Hilda Tloubatla speaks during the memorial service for reggae star Lucky Dube (seen on posters), who was gunned down in front of two of his children. Johannesburg, South Africa, October 2007. © Themba Hadebe/AP Photo

The Meaning of Loss

FIREARMS DIVERSION IN SOUTH AFRICA

INTRODUCTION

On 18 October 2007 internationally acclaimed South African musician Lucky Dube was murdered in Johannesburg with an illegally owned handgun, allegedly during an attempted car hijacking. Directly following Dube's murder, South African president Thabo Mbeki called for the country to 'act together as a people to confront this terrible scourge of crime, which has taken the lives of too many of our people—and does so every day' (SAPA, 2007). As of January 2008 four male suspects were standing trial for Dube's murder, among other charges (SAPA, 2008).

Dube was one of about 20,000 murder victims in South Africa in 2007, a significant number of which were murdered with firearms. According to a 2006 study of reported firearm deaths in 112 countries, South Africa had the third-highest annual rate of firearm deaths (26.8 per 100,000 people), after Colombia and Venezuela. The overwhelming majority (97 per cent) of reported firearm deaths in South Africa are coded as homicides (Cukier and Sidel, 2006, p. 16, table 2.1). As with much armed crime and violence in South Africa, most gun homicides are reportedly committed with illegal firearms; researchers claim that these weapons have been diverted primarily from licensed civilian owners, state armouries, and state personnel (Chetty, 2000, p. 45; Gould and Lamb, 2004, pp. 133–266; Kirsten, 2007, p. 2).

The South African government has prioritized the combating of violent crime since the late 1990s. More comprehensive and stringent firearms control legislation covering private citizens, businesses, and state institutions was passed in 2000 and phased in from 2000 to 2004. The legal reform process aimed to promote more responsible firearm ownership and possession and reduce firearm diversions to criminals (Gould and Lamb, 2004, pp. 207–12). However, the new laws have not been uniformly welcomed. Pro-firearm groups and the main political opposition party, the Democratic Alliance (DA), in particular, have criticized the unequal implementation and enforcement of the Firearms Control Act (FCA) No. 60 of 2000 (South Africa, 2000), complaining that private citizens are punished when they fall foul of the new regulations, while public institutions that commit the same violations go unpunished (King, 2008; SAGA, 2007).

This chapter considers the following questions:

- What are the trends in firearm loss and theft from South African civilians, private security companies, and state institutions—especially the South African Police Service (SAPS) and the South African National Defence Force (SANDF)?
- What impact, if any, has the FCA had on reducing diversions from these sources?
- How well are state institutions safeguarding their firearms stocks?
- What obstacles stand in the way of more accurate assessments of firearm diversions in South Africa, and therefore better prevention of such diversion?

Among the chapter's key findings are the following:

- Civilians, state institutions, and private security companies have all contributed to diversions of firearms into the criminal sector, as all these entities have reported significant loss or thefts of firearms.
- Civilians have been the primary contributor to the pool of lost or stolen firearms in South Africa. Between 2000 and 2006 an average of 18,731 civilian firearms were reported lost or stolen each year.
- Though public data remains incomplete, it appears that the FCA has helped reduce firearm diversions from civilian stocks. Firearm crime and violence remain very high, however.
- Controls over state-held firearms have improved since 1994, but additional administrative action is required to further reduce firearm diversion.
- The lack of publicly available firearm crime and mortality data has hindered a more thorough examination of the FCA's effects.

The chapter proceeds by describing the recent history of firearms crime and violence in South Africa, and the legislative reform process that produced the FCA. It then focuses on the problem of diversion among civilians, private security companies, the police, the national defence force, and other official agencies. It concludes with some reflections on the impacts of the new legislation in preventing diversion from these various sources.

FIREARM CRIME AND THE LEGISLATIVE REFORM PROCESS

Violence in South Africa in the apartheid era was closely associated with political and social repression. In the five years preceding the arrival of democracy in 1994, however, the country began experiencing an upheaval as the old political system started to crumble. One aspect of this upheaval was a gradual widening of previously contained violence into the mainstream. As early as 1994, civil society organizations had identified firearms as a vector of violence

Table 6.1 Reported crime in South Africa, 1994–2007*

Crime category	1994-95	1995-96	1996-97	1997-98	1998-99	1999-2000	2000-01	2001-02	2002-03	2003-04	2004-05	2005-06	2006-07
Murder	25,965	26,877	25,470	24,486	25,127	22,604	21,758	21,405	21,553	19,824	18,793	18,545	19,202
Attempted murder	26,806	26,876	28,576	28,145	29,545	28,179	28,128	31,293	35,861	30,076	24,516	20,553	20,142
Carjacking	**	**	12,912	13,052	15,773	15,172	14,930	15,846	14,691	13,793	12,434	12,825	13,599
Robbery of cash in transit	**	**	359	236	223	226	196	238	374	192	220	385	467
Illegal possession of firearms & ammunition	10,999	12,336	12,750	13,386	14,714	15,387	14,770	15,494	15,839	16,839	15,497	13,453	14,354

* Annual crime reporting runs from 1 April to 31 March.

** No data available.

Source: SAPS (n.d.)

and criminality and had begun public campaigns, including a major firearms amnesty in 1994, to highlight their dangers (Kirsten, 2007, p. 2). Guns became a focus for politicians almost from the beginning of the democratic era.

In 1996 the Department of Safety and Security and the South African parliament, the National Assembly, moved to amend firearms control legislation and specifically to promote more responsible firearms ownership and use. This took place in the context of a concerted government effort to address crime in a more coordinated and focused manner through the National Crime Prevention Strategy (NCPS). The NCPS provided a more integrated and comprehensive policy approach, shifting the focus from crime control to crime prevention.

The NCPS focused on the role of handguns in crime, based on data showing their relative prevalence in crime compared to other types of firearms. In 1998, for example, handguns were used in 57.4 per cent of all firearm-related murders, compared to commercial rifles and shotguns (24.8 per cent together) (Chetty, 2000, p. 21). In the same year, handguns accounted for 80 per cent of total cases of attempted murder involving a firearm, while commercial rifles and shotguns accounted for 6 per cent (Chetty, 2000, p. 26).

In 2000 the National Crime Prevention Centre published disaggregated firearms data and analysis for the period 1994–98 in a booklet titled *Firearm Use and Distribution in South Africa* (Chetty, 2000). It reported an average of 25,743 murders each year over the four-year period, of which an average of 44.4 per cent involved firearms. Handguns (pistols and revolvers) were reportedly the most common firearms used to commit murder in 1998. There were an almost equal number of reported cases of attempted murder over the period, with an average of 27,979 per year, of which an average of 79.5 per cent involved firearms (Chetty, 2000, p. 26).

The reform of South Africa's firearm control laws was accompanied by a process of public consultation, which was initiated by the Secretariat for Safety and Security and the Parliamentary Portfolio Committee on Safety and Security in the late 1990s. In 1997 the minister of safety and security appointed a committee to carry out an '[i]nvestigation into a new Policy for the Control of Legal Firearms in South Africa'. Its brief was to 'produce progressive policy proposals which will contribute to a drastic reduction in the number of legal firearms in circulation



An armed policeman watches residents who set up a barricade of burning tyres during a protest against the slow delivery of houses in the Oceanview area of Cape Town, where people still live in makeshift shacks, in May 2005. © Obed Zilwa/AP Photo

in South Africa' (Kirsten, 2004, p. 22). The committee fell under the policy unit of the national Secretariat for Safety and Security. It took another two years of research and intensive national and international consultation with various interest groups and foreign governments before the Department of Safety and Security completed the Firearms Control Bill (FCB), which was gazetted in December 1999, placing it in the public domain. As with other legislation in the new democratic South Africa, the FCB was subject to scrutiny by many interest groups, including weapons dealers and owners, as well as health professionals, women's anti-violence groups, human rights advocates, and community-based organizations.

Submissions from the public were invited, and both pro-gun and pro-gun control groups responded enthusiastically, submitting hundreds of documents, including letters, reports, and signed petitions. The FCB enjoyed high levels of public participation from a broad spectrum of society, enabling the department to produce a final piece of legislation that in many ways reflected the interests and concerns of those who had made oral presentations. Throughout this period there was intense public debate on the merits of the proposed law and its purpose. These discussions fostered a climate of greater public awareness and interest.¹

The consultation process culminated in the formulation of the Firearms Control Act No. 60 of 2000, or FCA (South Africa, 2000), which replaced the Arms and Ammunition Act No. 75 of 1969 (AAA) (South Africa, 1969). The FCA introduced more stringent eligibility and competency requirements for legal firearm owners, both state and civilian. Chapter 5 of the FCA requires a successful civilian firearm licence applicant to be, among other things, a South African citizen or a permanent resident, 21 years or older (previously the minimum age had been 16), a 'fit and proper person', of a stable mental condition and not inclined towards violence, not addicted to drugs or alcohol, not convicted of a violent crime within the past five years, in possession of an appropriate firearm safe, and in possession of a competency certificate.

The competency certificate is the most innovative firearm control feature of the FCA.

The competency certificate, which had not been a requirement of the AAA, is arguably the most innovative firearm control feature of the FCA. In order to be awarded a competency certificate, applicants are tested on their knowledge of the FCA, as well as whether they can demonstrate their ability to handle firearms safely. Testing may only be administered by a government-accredited service provider. Applicants also undergo an extensive background check, and this can entail interviews with intimate partners and/or neighbours by SAPS personnel. Other key reforms include the restriction of the number of firearms that individuals may possess (a maximum of four licences per individual, with a maximum of one licence for self-defence);² and the mandatory renewal of licences on a regular basis, depending on the type of firearm licence (five years for self-defence licences, ten years for sports shooting licences, ten years for private collection licences, two years for business licences, and ten years for hunting licences) (South Africa, 2000, ch. 6, sec. 27); and the inclusion of more comprehensive criteria for declaring a person unfit to possess a firearm (South Africa, 2000, ch. 12, secs. 102, 103).

The AAA permitted a firearm licence holder to lend his or her firearm to another person (who did not require a firearm licence) if the licence holder provided written permission. Drafters of the new law perceived this provision as contributing to firearm proliferation and misuse and closed this loophole in the FCA. A firearm owner is now only permitted to lend his or her firearm to a person (licensed or unlicensed) when the borrower is 'under his or her immediate supervision where it is safe to use the firearm and for a lawful purpose' (South Africa, 2000, ch. 6, sec. 22).³

Officially, the FCA came into full effect in July 2004, as it took close to four years to finalize the regulations and secure parliamentary approval. However, some elements of the Act, such as those mandating firearm-free zones (South Africa, 2000, ch. 20, sec. 140), were promulgated and came into effect as early as 2001. Furthermore, from

the time the legislation was passed in 2000, the SAPS began to enforce existing measures more stringently, including some that had not previously been enforced—especially those related to background checks for licence applicants. At the same time, the public debate about firearms began to alter many people's behaviours. Thus, over the period 2000–04 it is possible to look for the initial effects of the new regulatory system, though available data is inconclusive.

CIVILIAN FIREARM DIVERSION AND ARMED VIOLENCE

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

For example (as indicated in Table 6.2), between 1994 and 1999 an annual average of 194,000 private civilian firearm licence applications were approved by the CFR, but for the years 2000 and 2001, the annual average of approvals decreased by 24 per cent to 146,500. By 2003 the number of total licensed firearms recorded on the SAPS Firearms Registry had fallen from 4.5 million in 1999 to 3.7 million. The SAPS appears reluctant to release updated Firearms Registry data, as it is currently implementing a relicensing process for civilian firearm licence holders, which will be completed by the end of March 2009.

In an independent 2003 study, gun dealers and gun shop owners confirmed a noticeable decline in completed gun sales due to the introduction of more lengthy and stringent licensing procedures by the SAPS (Gould and Lamb, 2004, pp. 212–27). The reduction in licence approvals appeared to track a dramatic reduction in the number of licensed gun dealers in South Africa. Of the 720 licensed gun dealers in the country in 2000, 'no more than 50' remained in 2006, a reduction of almost 90 per cent (Soutar, 2006). This reduction was the result of new licensing criteria for dealers, increased annual fees, and on-site safety requirements that many dealers were not prepared to adopt, as well as the decrease in demand for new firearms as a result of more stringent requirements for civilian owners and the limits on the number of guns that can now be owned under the new FCA.

The impact of the new licensing criteria on the diversion of firearms to the illegal market and on armed violence is difficult to determine. One major stumbling block is that from 2000 onwards, the South African government refrained

Table 6.2 Annual total civilian firearm licences issued, 1994–2001

Year	Number
1994	242,911
1995	154,727
1996	199,365
1997	200,059
1998	179,523
1999	187,284
2000	131,489
2001	161,518

Source: Gould and Lamb (2004, p. 197)

from making disaggregated firearm crime data publicly available from 2000. Among the reasons for this regrettable reticence must be included the public and hostile nature of the debate around guns and gun control in South Africa, an increasing tendency to withhold information in general by the Mbeki administration on many matters, and a restructuring of government agencies that has had bureaucratic and resource consequences.⁴ Consequently, after 2000 violence trends can only be estimated based on aggregate crime data, media reports, and public health injury surveillance reports, such those produced by the National Injury Mortuary Surveillance System (NIMSS) and Statistics South Africa (NIMSS, 2006; Statistics South Africa, 2006).

As reflected in Table 6.1, from 1 April 2002 to 31 March 2006 the SAPS reported an average of 19,583 murders per year, which is a 23.9 per cent decrease from the 1 April 1994–31 March 1998 yearly average. An NIMSS study (2006) revealed that firearm-related deaths in major urban areas decreased by approximately 50 per cent from 2001–02 to 2004–05. An unpublished assessment of media reporting on firearm violence in South African that was

undertaken by the Institute for Security Studies for 2005–07 suggests that handguns remain the firearms of choice for criminals (ISS, 2008).

From 1 April 2002 to 31 March 2006 the SAPS reported an average of 26,230 cases of attempted murder per year, a minor reduction (6.2 per cent) compared to the 1 April 1994–31 March 1998 period, but there is no disaggregated data available to determine changes in the rate of attempted murder with a firearm. As reflected in Table 6.1, from 1 April 2002 to 31 March 2006 there was an average of 15,196 cases of illegal possession of firearms and/or ammunition per year, which was an increase of 11 per cent compared to the period 1 April 1994–31 March 1998.



A South African police officer assists a 13-year-old girl after she was shot in the arm in Richmond, July 1998.
© Rajesh Janlital/
AP Photo

Figure 6.1 provides details on the number of firearms reported lost or stolen and the number of firearms recovered or confiscated from 1994–95 to 2006–07.⁵ Between 2000–01 and 2006–07, an average of 18,731 civilian firearms were reported lost or stolen per year, a 5.8 per cent decrease compared to the period 1994–95–1998–99.⁶ However, more importantly, from 2004–05 (when all of the provisions of the FCA came into effect) to 2006–07, an average of 15,054 civilian firearms were reported lost or stolen per year (a 24 per cent decrease). In the absence of data on the specific circumstances of these losses—and because of the lack of information about how many lost or stolen guns go unreported—it is not clear whether the reduction in the reported number of weapons lost or stolen is the result of increased penalties for failure to report loss, improved licensing and competency criteria (which require familiarity with all the FCA's provisions), or simply a reflection of the fact that, as a consequence of increased pressure on firearms commerce in South Africa since 2000, there are simply fewer weapons in circulation. All of these factors have probably had an influence.

Figure 6.1 Civilian firearms reported lost/stolen and recovered/confiscated, 1994–2007

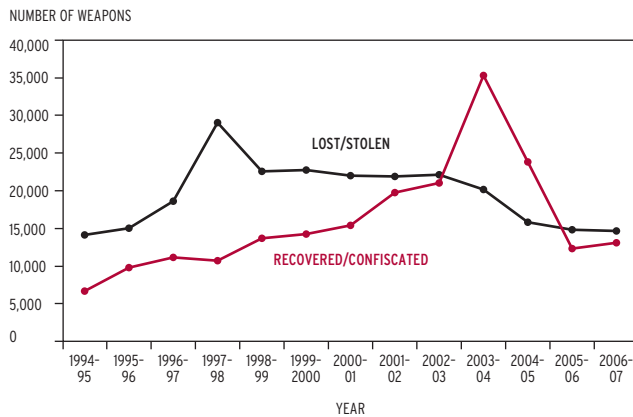


Figure 6.1 also shows that from 1994–95 to 2003–04 there was an annual increase in the number of firearms reported recovered or confiscated by the SAPS. In fact, by 2003–04 there had been an increase of 450 per cent compared to 1994–95. However, as Figure 6.1 reveals, there has been a gradual decline in the number of recoveries/confiscations since 2004–05, which is probably due to the gradual decline in loss/theft of firearms, the firearm amnesty process⁷ (in which 100,066 firearms were collected) that was implemented in 2005, and the successful recoveries/confiscations of previous years.

It is important to note that not all the firearms that were recovered or confiscated by the SAPS during this period were necessarily those that were reported lost or stolen during the same period. Many of the weapons recovered or confiscated were likely reported lost or stolen prior to the year in which they were recovered. It is also likely that an unknown proportion of weapons recovered in any given year are former state weapons, have no marking to identify their origins, or originated from another country.



DIVERSION FROM PRIVATE SECURITY COMPANIES

The private security industry in South Africa has grown at rates of up to 30 per cent per year since the early 1990s. Valued at ZAR 1.2 billion (USD 500 million) in 1990, by March 2007 the industry had grown to an estimated ZAR 30 billion (USD 4.1 billion) (Reynolds, 2003, cited in Minnaar, 2007, p. 129). Approximately 25,000–30,000 newly trained security officers enter the market every year, but turnover is extremely high, and only one-third of all registered security officers are active (Minnaar, 2007, p. 130). By March 2007 there were approximately 900,000 registered security

officers, of which only 301,584 were active (Badenhorst, 2007, cited in Minnaar, 2007, p. 130). Despite the low active-to-reserve ratio within the industry, there are more than twice as many active security officers as uniformed police officers in South Africa.

The rise in private security should be seen in the context not only of perceptions of increasing criminality in the years before and after apartheid was eclipsed, but also public frustration with the official police response, which was viewed as often insufficient or inappropriate.

The FCA introduced more stringent requirements for private security companies that utilize firearms to provide a service to either government or the public (South Africa, 2000, ch. 6, sec. 20). The requirements for business licences closely resemble those of private civilian licences. Each business firearm user must earn a competency certificate and be a 'fit and proper person', and the licence has to be renewed every five years. However, the firearm may only be used for business purposes (unless otherwise prescribed) and may be used by another person (if prescribed).

In practice, this means that security personnel are generally not permitted to carry their firearms when they are off duty. In addition, any business firearms may have multiple users. However, each user typically requires a competency certificate. The FCA



A South African bodyguard stands with her automatic weapon at the funeral service for seven of the eleven African National Congress supporters killed by unidentified gunmen in January 1999 in the Ndaleni township outside Richmond. © Adil Bradlow/AP Photo



A robber lies dead after allegedly being shot by a private security guard during a cash delivery robbery in a shopping centre in Johannesburg, September 2006. © AP Photo

prohibits private security officers from using their own firearms on duty, as had previously been commonplace in the industry. To conform to this change, many private security companies that had previously relied on employees using their own firearms while on duty were obliged instead to acquire new ‘company firearms’.⁸

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

Data on the number of firearms held by security company employees is generally not publicly available. In 2003, however, the CFR reported that some 1,643 security companies possessed firearms and that the total number of firearms in their possession was 58,981 (CFR, 2003, cited in Gould and Lamb, 2004, p. 185). Armed response companies claim that the loss or theft of company firearms is rare. Guard companies also claim the same. By contrast, assets-in-transit (AIT) companies (which mainly transport cash) report firearms thefts on a regular basis. AIT officers are invariably armed while moving assets, they are attacked more frequently than any other private security company officers, and their attackers are almost always armed. For these reasons, AIT firearms are routinely stolen during successful heists.⁹ In the absence of data on firearm diversion from the security industry overall, then, AIT heists provide an important indicator for firearms diversions from the private security industry.

Table 6.3 Cash-in-transit heists, 1 April 2001–31 March 2007

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

Source: SAPS (n.d.)

Since April 2003 there has been a significant increase in the number of reported cash-in-transit robberies. The SAPS reported 192 cash-in-transit robberies in 2003–04, 220 in 2004–05, 383 in 2005–06, and 467 in 2006–07 (see Table 6.3). This represented a 243 per cent increase in such robberies between 2003–04 and 2006–07. SAPS described many of these robberies as ‘repeat offences committed by experienced perpetrators at the request of syndicate leaders’ (see SAPS, 2007b, p. 19). There had been 374 heists in 2002–03 and 238 in 2001–02.

AIT companies estimate that their vehicles carry between two and three firearms on average. Assuming that each AIT vehicle attacked in 2006–07 carried 2.5 firearms, an average of 1,168 firearms would have been stolen in this way during the period (Gould and Lamb, 2004, p. 190). Figures providing total non-state firearm losses for this period had not been released at the time of writing. Using the same formula, however, it may be estimated that 958 firearms were lost/stolen through AIT heists in 2005–06, accounting for 6.5 per cent of the 14,842 civilian firearms reported lost/stolen that year (see Figure 6.1). It is important to note, however, that the primary objective of those groups that target AIT vehicles are the assets, which are predominantly cash.

In addition to AIT heists, firearms can also be diverted from private security companies when they lose their authorization and go out of business. In a presentation to the Parliamentary Portfolio Committee on Safety and Security in 2003, Eugene Vilakazi, director of the Private Security Industry Regulatory Authority (PSIRA), raised the concern that when security companies are deregistered their firearm licences are not automatically cancelled, as required by law, alleging that in some instances security companies register and then deregister simply to obtain licensed firearms to which they were not really entitled. According to Vilakazi, the PSIRA had no means of checking the status of private security companies’ firearms after deregistration. When asked whether the PSIRA took stock of all the firearms possessed by a private security company before it withdrew its registration, Vilakazi said it did not, but that the process was ‘being introduced’ (Vilakazi, 2003, cited in Gould and Lamb, 2004, p. 187). Given this state of affairs, it has not been possible to determine accurately the nature and extent of firearm loss from defunct private security providers.

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

FIREARMS DIVERSION FROM THE SOUTH AFRICAN POLICE SERVICE

Key provisions of the FCA attempted for the first time to comprehensively reduce the potential for the misuse and diversion of state-held firearms. Chapter 11 of the FCA (South Africa, 2000, secs. 95–101) requires employees of official institutions, which include state agencies such as the SAPS, the SANDF, and the Department of Correctional Services, to obtain an official permit to possess a firearm.¹⁰ A permit can only be issued if the state employee is a ‘fit and proper person’, and has ‘successfully completed the prescribed training and the prescribed test for the safe use of the firearm’ (a competency test) (South Africa, 2000, sec. 98.8). If state employees are required to take their firearms home, then they are required by law to store them in an appropriate safe. Consequently, the SAPS has sought to provide those police personnel that are required to carry firearms with firearms safes. These provisions entailed a significant enhancement of firearm control processes and tools for official institutions. The improvements sought to bring police standards into line and improve public confidence.

In two ways, however, the provisions covering official institutions differ from those of civilians. Firstly, the issuance of permits to employees of official institutions is done by the head of each official body, not an independent organization (such as the CFR in the case of civilians) (South Africa, 2000, sec. 98.2). Secondly, any conditions attached to the permit relating to, for example, storage, transport, use, and disposal are completely at the discretion of the head of the official institution (South Africa, 2000, sec. 98.4). Although the FCA outlines standard practices for the carrying

Table 6.4 SAPS firearms losses, 1 April 2001–31 May 2007

Year ¹	Stolen	Robbery ²	Lost/misplaced	Total
2001–02	131	368	444	943
2002–03	239	487	195	921
2003–04	219	412	304	935
2004–05	179	289	267	735
2005–06	n/a ³	n/a ³	n/a ³	2,297
2006–07	n/a ³	n/a ³	n/a ³	3,856

¹ The SAPS statistical year runs 1 April–31 March.

² ‘Robbery’ entails the removal of the firearm from a person by force, while ‘stolen’ does not entail such force.

³ Disaggregated data for 2005–06 and 2006–07 was not publicly available at the time of writing.

Source: Democratic Alliance¹¹

and storage of official weapons, these may be superseded within certain boundaries by the head of the organization (South Africa, 2000, sec. 98.6).

In 1999 a Department of Safety and Security ministerial policy report on firearms control stated that over the previous nine years, 14,636 police firearms had been lost or stolen, an average of 1,626 per year (Department of Safety and Security, 1999, p. 4, cited in Gould and Lamb, 2004, p. 151). This figure fell to an annual average of 883.5 per year from 2001–02 to 2004–05 (see Table 6.4),¹² but in 2005–06 it began rising steeply, reaching a high of 3,865 lost or stolen firearms in 2006–07.

The apparent increased disappearance of police firearms has been extremely embarrassing to the SAPS, which is tasked with enforcing more responsible firearm possession and use among civilians. One possible explanation for the increased loss is inadequate implementation of firearm control processes and measures within the SAPS. For example, in the *SAPS Annual Report 2004/05*, the auditor general indicated that in many cases firearms and ammunition from officials who had left the service

were not returned to the SAPS, and that weaknesses existed regarding the safe storage of firearms by SAPS members (SAPS, 2005). In the following year, the auditor general further found that SAPS firearm control registers were not properly maintained and that the required number of weapons inspections had not been undertaken (SAPS, 2006).

In January 2007 SAPS national commissioner Jackie Selebi appeared before the National Assembly's Standing Committee on Public Accounts (SCOPA) to respond to questions by members of parliament about the dramatic increase in the loss/theft of SAPS firearms. Selebi told the committee that police personnel were being provided with safes to store their firearms at home, and that the



A South African police officer keeps his weapon at the ready as a vehicle burns behind him in December 1995, outside the Lamontville police station on the south coast. © Joao Silva/AP Photo

SAPS has introduced a more effective firearm marking system (South Africa, 2007). The September 2007 *SAPS Annual Report* (covering 2006–07) implies that there was been some improvement in the internal firearm control measures: firearm registers were being appropriately maintained in three provinces, and inspections of SAPS firearms holdings had improved. Nevertheless, the number of lost or stolen SAPS firearms had increased to 3,856 (a 68 per cent hike from the previous year) (SAPS, 2007).

The opposition DA was highly critical of the increase in SAPS losses/thefts of firearms, claiming that the national police commissioner had reneged on his promises to SCOPA (DA, 2007b). However, CFR director Jaco Bothma defended the SAPS, indicating that the police were fully compliant with the FCA. Bothma also suggested the apparent increase may be the result of better bookkeeping: that many of the SAPS firearms reported lost or stolen in 2006–07 had in reality been lost or stolen in earlier years, but had been reported due to improved SAPS firearms stock taking, as required by the FCA.¹³

Table 6.5 Attacks on and murders of SAPS officers, 1 April 2001–31 March 2007

Year	Total attacks	Murders*
2001–02	737	139
2002–03	906	150
2003–04	717	108
2004–05	721	94
2005–06	1,274	95
2006–07	769	108

* Murders are a portion of attacks.
Source: SAPS (2007b, tables 33 and 34, p. 54)

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

South African police officers have some of the highest rates of homicide victimization of police in the world. One possible explanation for this is that they are targeted for their firearms. From 2001 to 2006, 694 SAPS officers were fatally wounded in a total of 5,124 attacks (see Table 6.5).

The SAPS has suggested that most police killings occurred during hot pursuit of suspects or while making arrests, and that there is no evidence that police officers are mainly killed for their guns (SAPS, 2007b, p. 54). However, as with other firearm-related violent crime, the SAPS has not publicly revealed how many firearms its officers have had stolen from them annually as a result of murders and attacks. Yet the fact remains that police officers are regularly attacked and murdered, and it is likely that in at least some cases their firearms are stolen.

FIREARMS DIVERSION FROM THE SOUTH AFRICAN NATIONAL DEFENCE FORCE

Like the SAPS, the FCA also requires South African National Defence Force (SANDF) personnel to obtain a firearm permit, which entails a competency certificate. However, as indicated above, SANDF personnel are exempted from this requirement 'while performing official duties under military command' and 'if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature and type of firearm they are authorised to carry' (South Africa, 2000, ch. 11, sec. 98). Like all official institutions, the SANDF is required to maintain an accurate register of its firearm holdings.

Historically, South Africa's apartheid state, particularly the military (then called the South African Defence Force, or SADF¹⁴), facilitated the transfer of arms and military equipment to a number of insurgent groups in Southern Africa, in particular the União Nacional para a Independência Total de Angola (better known as UNITA) in Angola and Resistência Nacional Moçambique (RENAMO) in Mozambique (Seegers, 1996, pp. 210–40). Weapons diverted to these insurgent groups were allocated the same SADF administrative code as those earmarked for disposal. Further cryptic sub-categories were added by the SADF in the 1980s referring to weapons sent to Namibia and those sold to the South African Police¹⁵ (Gould and Lamb, 2004, p. 157).

The SADF's records of the thousands of weapons it diverted to homeland¹⁶ defence forces (which were often commanded by SADF officers) and the Inkatha Freedom Party (IFP) were for the most part destroyed. The IFP was also supplied with weaponry by the South African Police, and used it to wage war against the African National Congress (ANC) in KwaZulu-Natal, particularly in the late 1980s and early 1990s (Batchelor, 1997, p. 108). As indicated in Gould and Lamb (2004, pp. 161–84), each homeland's firearm registers were incomplete, and there is evidence of substantial weapon diversions from homelands' military and police stockpiles. In addition, thousands of firearms from homeland defence forces were reintegrated into the SANDF stockpile after 1994, but to date the exact number of missing firearms from former homeland militaries has not been established.

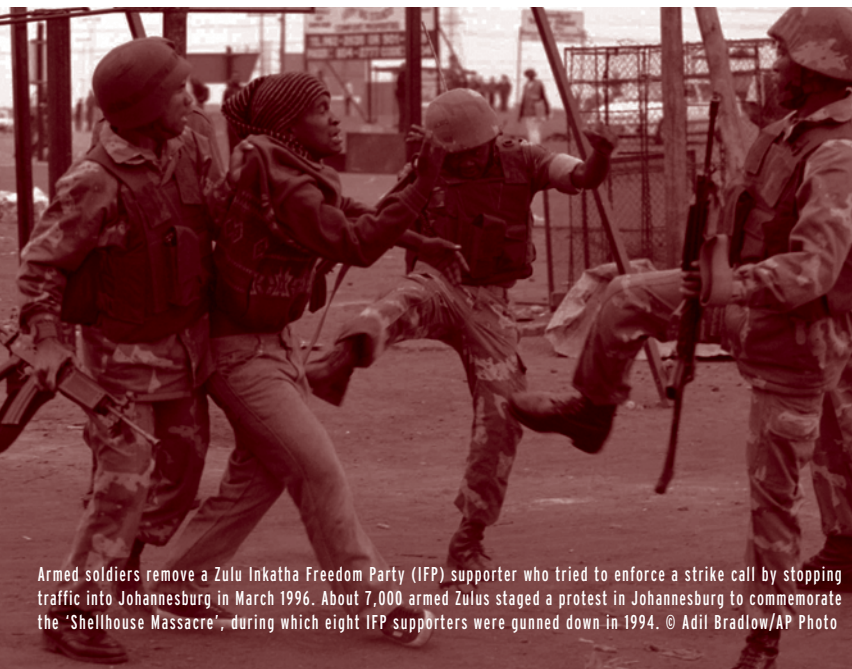
An audit in 2000 revealed that many weapons could not be accounted for, but in 2003 the SANDF indicated that 2,547 firearms had been lost or stolen since 1994 and 788 recovered, leaving a balance of 1,759. This relatively low number, however, did not include weapons still in possession of the SANDF commando units,¹⁷ 'donated' to neighbouring countries, or given to former homeland governments (Gould and Lamb, 2004, pp. 161–63).

In a written answer to a parliamentary question from the DA in November 2005, Minister of Defence Mosiuoa Lekota stated that between 1 January 2000 and 31 August 2005, 479 firearms were stolen or lost from the SANDF, and that during the same period 2,898 weapons were recovered, which Lekota attributed to the successful implementation of the FCA (Van Dyk, 2007).

The auditor general's annual reports on the SANDF provide a less rosy picture. The *2006 Report* of the auditor general complained of the SANDF's 'lack of monitoring compliance with policies and procedures relating to stock

and equipment' and also stated that 'stock takes were either not performed or certificates could not be provided at all units'. In addition, the audit found that firearm registers were not appropriately maintained (South Africa, 2006a, pp. 97–99).

One problematic area that the audit identified was the lack of policy and oversight of firearms and other SANDF equipment in foreign operations (such as the one in Burundi). In October 2006 the *Star* newspaper published a story in which it claimed that some SANDF weapons from the latter's Burundi peace support operation had been acquired by the rebel Parti pour la libération du peuple



Armed soldiers remove a Zulu Inkatha Freedom Party (IFP) supporter who tried to enforce a strike call by stopping traffic into Johannesburg in March 1996. About 7,000 armed Zulus staged a protest in Johannesburg to commemorate the 'Shellhouse Massacre', during which eight IFP supporters were gunned down in 1994. © Adil Bradlow/AP Photo

hutu–Forces nationales pour la libération. The *Star* identified the missing SANDF arms in Burundi as 40 mortar bombs, 54 R4 rifles, 4 R5 rifles, a sniper rifle, 2 12-gauge shotguns, 8 machine guns, 8 pistols, and 27 grenade launchers (Maughan, 2006).

The government's decision in 2006 to disband commando units presented the SANDF with a major firearms management challenge. These units had been struggling since 1994 to shake off their apartheid-era associations, and remained mistrusted by the ANC, despite commando units' appeals to government that they were necessary to combat rural crime. The disbanding began in 2006 and final unit closures are scheduled for mid-2008. In 2003 the SANDF had already expressed concern about firearm management within commando units, indicating that it suspected that many of the automatic rifles that had been issued to them would prove, upon inspection, to be missing (Gould and Lamb, 2004, pp. 160–61).

The issue was picked up by the DA, which condemned the SANDF's lack of control over commando firearms for 'allowing weapons to fall into the hands of unknown persons' (DA, 2007a). The SANDF responded by indicating that the FCA has improved firearms management standards in the SANDF, enabling it to control its stockpile better and trace disappearances and losses (Maughan, 2007a). This was also the perspective of the CFR, whose director reported that the SANDF is 'fully compliant' with the FCA.¹⁸

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

In Mmono's view, existing SANDF policy and procedures for the control of firearms and ammunition still required review by 'relevant role players' to bring them into line with the FCA. Mmono also wrote of his concern that the SANDF could be faced with civil lawsuits from members of the public injured or killed by firearms in the hands of unfit soldiers (Maughan, 2007b). The concerns and criticisms appear to have been taken into consideration by the South African Department of Defence (DoD). In the Report of the accounting officer (dated 31 August 2007), which is included in the DoD's *Annual Report FY 2006–2007* (DoD, 2007), the concerns of the auditor general are presented in conjunction with the DoD's proposed remedial action with respect to asset management. For example: 'asset management' units and teams have been established, and reform measures and milestones are in the process of being implemented to convert the current SANDF asset management system to a system that is prescribed by the National Treasury (DoD, 2007, pp. 181–88). While these developments show the distance that state institutions must go to reform, it appears that the FCA has created an institutional dynamic for weapons management reform within the SANDF.

OTHER STATE FIREARMS DIVERSIONS

The Department of Correctional Services (prisons) possesses firearm holdings, and has the same obligations as the SAPS under the FCA in terms of firearm permits, testing, record keeping, and safe keeping. Firearms and armaments held by the Department of Correctional Services were valued at ZAR 2.95 million (USD 420,000) in 2006, according to the department's *Annual Report 2006* (Department of Correctional Services, 2006, p. 55).

The decision to disband commando units presented the SANDF with a major firearms management challenge.

In the auditor general's section of this annual report, no specific mention is made of deficiencies in weapons management. However, the auditor general did observe in general terms that there was 'insufficient capturing of assets . . . which resulted in the fixed asset register not being adequately maintained or updated'. The auditor general noted a number of problems, including the fact that Correctional Services has been using three different computer programmes to manage its inventory and fixed assets, but that no reconciliation has been performed among the three systems. The auditor general discovered that a large number of purchased assets that showed up on one of the systems did not show up on another. Because of the confusion, the auditor general stated that he was 'unable to verify the accuracy and completeness of the asset register'. This judgement includes the Correctional Services armoury and implies that the department is not yet fully FCA-compliant, since a core requirement of the FCA for official institutions like Correctional Services is that they maintain accurate weapons registers. The auditor general noted in the *Annual Report 2006* that Correctional Services management had undertaken 'to introduce manual reconciliation procedures to overcome the interface problems for the following year' (Department of Correctional Services, 2006, p. 62). This will have been a huge and daunting operation; it remains to be seen to what extent it was indeed carried out.

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

CONCLUSION

Along with Australia and Canada, South Africa has taken bold initiatives in recent years to revise its national laws covering both civilian and state firearm holdings. The initiative was based on an evidence base and an open, public dialogue. This in and of itself is a major accomplishment.

Unfortunately, almost simultaneous with the passage of the new law, the flow of disaggregated firearm mortality and morbidity data abruptly stopped. Six years later, the ability of researchers, policy-makers, and others to measure the effectiveness of this major public policy intervention remains extremely limited. That situation is improving, but is a stark reminder of the sensitivities that surround the development of firearms policy in many countries.

Despite the data gaps, it appears that the vast majority of licensed firearms in South Africa remain in private civilian hands, and that most lost or stolen firearms—those that form the pool of diverted weapons—originate from private civilians. Under these circumstances, the FCA's primary focus on civilian firearm ownership is appropriate. There is some indication that the new administrative and competency requirements have contributed to reductions in firearm loss and theft from private citizens, as well as in firearm homicides, though this remains to be proven.

At the same time, the FCA and associated regulations properly seek to stem diversion from state institutions as well, especially the police and the military. There is clear evidence that mismanagement, poor enforcement of safety

and storage requirements, and other problems continue to plague these agencies and contribute to ongoing firearm diversions. Further improvements, especially administrative measures, are required to enhance firearms control within these institutions.

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

LIST OF ABBREVIATIONS

AAA	Arms and Ammunition Act No. 75 of 1969	NCPS	National Crime Prevention Strategy
AIT	assets-in-transit	NIMSS	National Injury Mortuary Surveillance System
ANC	African National Congress		
CFR	Central Firearms Registry	PSIRA	Private Security Industry Regulatory Authority
DA	Democratic Alliance		
DMPS	Durban Metro Police Service	SADF	South African Defence Force
DoD	Department of Defence (South Africa)	SANDF	South African National Defence Force
FCA	Firearms Control Act	SAPS	South African Police Service
FCB	Firearms Control Bill	SCOPA	Standing Committee on Public Accounts
ICD	Independent Complaints Directorate	USD	United States dollar
IFP	Inkatha Freedom Party	ZAR	South African rand

ENDNOTES

- 1 A more detailed analysis of the formulation of this legislation appears in King, Proudlock, and Michelson (2006).
- 2 The FCA allows for the issuing of additional licences to professional hunters and sport shooters. However, the number of additional licences is determined by the registrar of firearms on a case-by-case basis.
- 3 The motivation behind this provision was primarily to allow for firearm training for and firearm use by hunters under the age of 21.
- 4 In April 2007 the minister of safety and security announced that crime data would be released more than once a year. More regular crime reports have been published since then, but major gaps still remain in our understanding of mortality over the period 2000–06.
- 5 SAPS data does not distinguish between guns that are unintentionally lost and those that are stolen; or between those that have been recovered and returned to their owners and those that have been confiscated (presumably because either the guns are illegal or the owners are prohibited from owning firearms).
- 6 Data relating to the loss and theft of firearms is combined by the SAPS, and often firearms that have in reality been lost (hence through negligence) are often reported as being stolen, as the penalties for losing a firearm can be severe.
- 7 A firearm amnesty process was initiated in 2005 to collect unlicensed firearms. The key motivation was that the SAPS suspected that there were significant numbers of unlicensed firearms in existence due to the reduction in the maximum number of licensed firearms for civilians (as permitted by the FCA) and that numerous firearms had been inherited without being licensed. Owners of unlicensed firearms were encouraged to surrender these firearms to the SAPS with the commitment from the authorities that no legal action would be taken against such individuals so long as the firearm had not been used in the commission of a crime (ballistic testing of surrendered firearms was carried out). No financial compensation for these firearms was provided. See Kirsten (2007) for more details.
- 8 Interviews with private security companies, Johannesburg, Pretoria, Durban, and Cape Town, 2003.
- 9 Interviews with private security companies and the Private Security Industry Regulatory Authority. The findings are discussed at greater length in Gould et al. (2004).
- 10 As the FCA provides, SANDF personnel are exempted from the permit requirement while they are 'performing official duties under military command' and 'if they have in their possession a written order, instruction or route form specifying the duty to be performed and the nature

and type of firearm they are authorised to carry'. The reason for the provision is that the SANDF makes use of firearms that other users and institutions are prohibited from possessing, such as automatic firearms. In addition, the military's role is to engage in armed combat when required. SANDF personnel, however, are not permitted to carry their official firearms when off duty, and if they wish to acquire a private firearm licence, then the normal civilian licensing procedures apply.

- 11 Figures for 2001–05 derived from a transcript of the answer to a DA question in the National Assembly, 28 June 2005; figures for 2005–07 from a telephone interview with Dianne Kohler-Barnard, DA spokesperson, 20 September 2007.
- 12 Democratic Alliance figures make a distinction between 'stolen' and 'robbery', although it is not immediately clear what this might be.
- 13 Telephone interview with Jaco Bothma, CFR director, 21 September 2007.
- 14 In 1994, following the democratic election in that year, the SANDF was created, an amalgamation of the SADF, the liberation armed factions, and the homeland militias (for 'homeland', see endnote 16).
- 15 Apartheid-era precursor of the SAPS.
- 16 Homelands were so-called black 'independent states' created by the apartheid government as a logical (if unworkable) extension of the apartheid system, which aimed at the complete physical separation of black and white people.
- 17 Commando units were units primarily consisting of rural, white civilians who received training in the SADF, were issued with firearms, and performed intelligence-gathering and counter-insurgency activities and fought crime.
- 18 Telephone interview with Jaco Bothma, CFR director, 21 September 2007.

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ACKNOWLEDGEMENTS

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