

The #SafeCitizen Campaign

Building hope for law-abiding citizens



July 26th, 2021

THE CIVILIAN SECRETARIAT FOR POLICE

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Dear Sirs:

FORMAL SUBMISSION OF SAFE CITIZEN CAMPAIGN NPC 2020/086087/08 IN RESPECT OF DRAFT FIREARMS CONTROL AMENDMENT BILL 2021

Perhaps the most telling and relevant indictment of the socio-political and regulatory environment into which the government seeks to impose the proposed Firearms Control Amendment Bill 2021 is penned on July 24th 2021 by the Kathrada Foundation¹. Here [*our italics and emphasis*] is an excerpt from a media statement of that august institution:

“The sluggish response of our police, army and intelligence services to the mayhem is beyond comprehension. And when they did react, they did so almost grudgingly, resulting in a profound loss of faith among South Africans in the structures meant to protect and serve the public at large.”

“Communities and business owners were left to defend themselves from the mass looting that was unleashed. Many of these efforts may not have been necessary, had the police acted timeously and adequately to enforce public order to safeguard communities and property.”

Within the same week as the Kathrada media statement comes the revelation² that in Gauteng, 50% of the flying squad vehicles are out of service and one out of seven police helicopters is in the air. Is this the police force that will protect the community who the government intends to disarm with this proposed abrogation of Act 60 of 2000?

Safe Citizen, whilst seizing this opportunity to submit formal comment on the Bill emphasizes that with the exception of isolated points, the Bill is rejected in its entirety.

¹ <https://www.kathradafoundation.org/2021/07/24/looters-and-racists-cannot-set-the-agenda/>

² <https://citizen.co.za/news/south-africa/2580952/gauteng-police-shortage-flying-squad-vehicles/>

Protocol:

This document is consecutively numbered based on our responses and comments and each paragraph number of our document shall identify the specific section of the DRAFT FIREARMS CONTROL AMENDMENT BILL 2021 – (hereinafter referred to as the Bill).

(A) **PROCEDURAL IRREGULARITIES CONNECTED TO PUBLIC CONSULTATION - RETENTION OF ALL RIGHTS IN CONNECTION WITH FURTHER OPPORTUNITY TO PURSUE MEANINGFUL PUBLIC COMMENT ON THE BILL**

- a.1 The fact that Safe Citizen hereby submits comments on the relevant sections in the Bill must in no way be interpreted as a complete submission and most certainly not as a waiver of our rights to meaningful public participation and consultation nor of our rights to pursue any legal remedy available to Safe Citizen in this connection. You are formally placed on notice that due to a lack of access to material data and the late release of data³ intrinsic to the Bill, **we have been unable to address the content of the Bill appropriately and effectively** on behalf of our members and stakeholders. Our specific objections to various elements and sections of the Bill are canvassed later in this submission. Finally, we refer you to the various correspondence which has been addressed to you by our attorneys in connection with various PAIA applications that have not been dealt with by the Presidency and the SAPS.
- a.2 The claim by the Minister of Police in an official press release on 26 May 2021, that all stakeholders were consulted before publishing the bullet-pointed summaries of proposed amendments to the FCA in the Bill, is simply untrue.
- a.3 The so-called extensive research to which the Minister's press statement of 26 May 2021 refers was not, until 9 days before closing of the first comment period of 45 days, available to the public. Our attorneys have addressed a letter to the Secretary of Police in this regard and this issue is further detailed in paragraph 1.4 hereof.

³ This data, inter alia, is the 'Wits Report' and the concurrently released 'Committee Report' which by your own admission, 'The research considered and policy used in the development of legislation are deemed important and the two reports are made available to the public' available at this web address: [http://www.policesecretariat.gov.za/newsroom/mediastate/FCA_Media_Statement.pdf](http://www.policeseecretariat.gov.za/newsroom/mediastate/FCA_Media_Statement.pdf)

- a.4 Moreover, there is no proof furnished of the alleged support by several government departments (page 133 of Gazette No. 44593 of 21 May 2021) for the amendments contained in the Bill. It is noteworthy that support of the Departments of Environmental Affairs and Tourism is being claimed. In the light of a complete absence of meaningful and broad consultation with stakeholders who are well known to be pro-private firearm ownership it is perplexing that the CSOP would seek endorsement of the Bill from entities that are by comparison, on the fringe of this issue and who really have little direct interest in it.
- a.5 The patent irrationality of the proposed amendments leads any rational person to conclude that the proposed amendments have been developed in a vacuum populated by anti-gun lobby groups and by those who have received politically based (ideological) instructions to bring about the wholesale disarmament of South Africans. As will be pointed out later in this document, the CSOP and the sponsors of this Bill have failed the NDP and the people of South Africa by even suggesting the adoption of a Bill that effectively strikes at the heart of Constitutional rights of all South Africans.
- a.6 Regulations containing the practical implementation procedures of the proposed amendments to the FCA are not available for perusal. This further complicates appropriate and informed comment on any amendment to any section of the Bill.

(B) GENERAL OBJECTIONS

- b.1 Safe Citizen objects to the lack of consultation with the important stakeholders (whose rights are at stake), in the creation and formulation of the Bill and to the underhanded way in which the Bill has been introduced.
- b.2 Further to the above, Safe Citizen specifically objects to the fact that, inter alia, none of the following organisations or institutions have been properly consulted and afforded appropriate time to participate in meaningful public consultation:
 - b.2(1) Organisations, such as Gun Owners of South Africa (“GOSA”), South African Gun Owner’s Association (“SAGA”) and Safe Citizen Campaign (“Safe Citizen”);
 - b.2(2) South African Police Services (“SAPS”)-Accredited Hunting, Sport Shooting and Collector’s organisations;
 - b.2(3) Businesses such as wildlife resorts (and their anti-poaching divisions) and Registered Security Services Providers that use firearms who are accredited with SAPS in terms of Section 20 of the FCA;
 - b.2(4) Traditional Leaders;
 - b.2(5) The Provinces, especially as provinces such as the Western Cape, which in particular has been impacted by the destabilising effect of the supply of guns to criminal gangs by certain police officers in SAPS, and with a view on the historical and ongoing understaffing (of SAPS members) in this province in relation to national standards;
 - b.2(6) The public at large who as a whole, benefit from the fact that there are armed civilians whose possible and unknown presence serves as a general deterrent to criminals. We are as a country experiencing and trying to survive a dark and violent time in contemporary South Africa. The public at large have experienced first-hand in July 2021, just how challenged the government is to attend to community safety and security. It would be absurd for the government or the Minister of Police to suggest that in any way at all, SAPS and Metro Police in KZN and Gauteng were able to contain widespread criminal behaviour of the most violent kind in July 2021 wherein the lives and livelihoods of millions of citizens and consequently the rule

of law and the economy were and are on the line. SAPS cannot deny that in KZN, it was lawfully armed citizens who were asked by SAPS for ammunition in the middle of the first attacks in and around Durban. SAPS cannot deny that private citizens, lawfully armed stood with SAPS officers to protect the police station at Amanzimtoti. We have all seen what can happen in South Africa. Even were there no attempts by subversive persons at inciting an insurrection, socio economic and socio political conditions that exist in our country will persist for many years into the future. Law abiding citizens understand very clearly that they are on their own in times of emergency;

- b.2(7) Civil Rights Organisations that represent the public interest;
- b.2(8) The Organised Agricultural Organisations that represent the interests of the farming community, such as Agri SA and TLU;
- b.2(9) Organisations that represent specific interest groups within the firearms community, such as the Professional Hunter's Association of South Africa ("PHASA");
- b.2(10) Organisations that have completed relevant actuarial and statistical research, such as the Institute of Race Relations ("IRR");
- b.2(11) The content of the proposed Bill has not discussed with stakeholders in the Parliamentary Portfolio Committee on Police where the representatives of the relevant political parties and other stakeholders could have contributed to the discussions on the subject. This despite written requests for this opportunity. This aspect points to a serious breach of Act 2 of 2011.
- b.3 Safe Citizen also objects to the recalcitrant attitude of the CSOP and SAPS to engage in meaningful discussion and to give effect to Court orders (despite many and various written requests to the Secretary of Police so to do) with the bona fide stakeholder groups through stakeholder meetings. We ought to have been consulted on the development and drafting of the Bill, long before the Bill was submitted to Cabinet, especially when one considers that the Bill has been largely drafted since before 2017 and that the 'Wits' Report' has been concealed from everyone outside of CSP with the exception of GFSA.

In this regard we specifically refer to the relevant court cases such as the matter raised by the South African Arms and Ammunition Dealer's Association who were compelled to approach court yet again after obtaining a court order, to compel the SAPS to consult with them on the implementation of the Electronic Connectivity of the licensing system at the CFR, something that should have been operational at the time of the introduction of the FCA, in 2004.

- b.4 Safe Citizen objects to the statement in the Bill that the two-day firearms summit (dated 25 and 26 March 2015), that preceded the submission of comments to the proposed 2015 Firearms Control Bill, could be regarded as having satisfied the requirements for public consultation on this Bill released in 2021.
- b.4(1) We submit that it is evident (<https://pmg.org.za/committee-meeting/20603/>) that the 2015 summit addressed general issues, and that the systemic problems that were raised there for which the SAPS is responsible, have not as at date of this submission been addressed or corrected, having in fact become exponentially worse. This includes the unlawful direction dated February 2016 by the then newly appointed Acting National Commissioner as far as it relates to the disabling of the IT system of the CFR which system was, prior to that, able to capture applications for renewal that were handed in after the expiry of the '90 -day' period.
- b.4(2) It is also clear to Safe Citizen that the 2021 Bill goes significantly further in many aspects than what has ever been discussed at the 2015 summit or referring to the 2015 Amendment Bill. One example is that the issue of a proposed ban on firearm ownership for self-defense was not proposed or discussed.
- b.5 Safe Citizen objects to the fact that the Minister of Police, and the Secretary of Police, (the latter in flagrant breach of Act 2 of 2011) and the Government in general, refused to consult with well-known stakeholder groups directly representative of large numbers of lawfully armed citizens and numbers of competent citizens, some waiting more than a year for the finalisation of a competent application to possess a firearm.

- b.6 Safe Citizen objects to the insufficient time that the Secretary of Police has provided for comments to the Bill. A 'leaked' version of this Bill was publicly available in 2017. Despite formal queries to the Government about the leaked version, there was no response at all. This could have been properly addressed four years ago and not crammed into an absurd period of 45 days, now extended by only 21 days.
- b.8 Safe Citizen objects in broad terms to the policy and philosophy behind the Bill. We specifically request the government to have rational regard and to apply its mind to the contents of the Report by the Institute of Race Relations ("IRR") that can be found at <https://irr.org.za/reports/occasional-reports/files/01a-2014-page-1-00-2014-gun-report-21-06-2021.pdf>. We submit that this report strikes down any alleged foundation of rational requirement behind the proposed amendments contained by the Bill;
- b.9 Safe Citizen objects to the Bill because we believe that the rationale behind its introduction is *inter alia* unsound and ideologically motivated and we object against the contents in broad terms, *inter alia* based on a pervasive irrationality – the Bill is simply disconnected from reality in South Africa.
- b.10 We object to the Bill because we believe that the purported reasons for the introduction of the Bill are unsound. We believe that government has been less than honest with the timing of the introduction of the Bill, luring literally tens of thousands of people into the belief through the declaration of "amnesties" for expired licenses, that their applications would have been considered in terms of the existing FCA, whilst now changing the goalposts, both through a de facto cessation of dealing with these applications, as well as a de jure attempt at changing the terms of the relevant social pact, ex post facto. We believe that government also intentionally created this situation of a de facto inability to cope with their administrative duties and ultra vires the provisions of the existing FCA, as is evidenced by:

- b.10(1) Illegally changing their Information technology system in February 2016, in order to not facilitate for the capturing of applications for the renewal of licenses after the date of expiry thereof, as is indeed provided for in terms of the FCA and the Regulations thereto (refer to Section 24 “as may be prescribed” as have been done in Form 518 that was promulgated into law in terms of the Regulation, read with Section 28(6) “extend any period”)
- b.10(2) By disallowing applicants from submitting a new application for a new license for the firearm, for which the license has expired, as the Supreme Court of Appeal has recently held in the Fidelity Security matter, that they are entitled to do, as the Court found that there is “nothing even remotely contained in the FCA, that precludes them from so doing”.
- b.11 We object to the Bill because we believe that its introduction into law will *inter alia* result in massively increased levels of societal instability and violent crime in South Africa. We believe that government should rather encourage and facilitate the existence of armed citizens who act responsibly as an asset in the quest for higher levels of public safety and good order.
- b.12 We object to the Bill because we believe that it will exponentially increase the existing imbalance of power from the majority of the law-abiding section of society, to the criminal element in society, and because it will make the public vulnerable to “violence from public sources”, as a mischief that the FCA in its current form recognizes, something which is expressly proposed to be removed by the Bill. There can be no good reason for this proposal.
- b.13 We object to the Bill because we believe that the only segment of society that will benefit from it will be the criminal element. On the other hand, it will be hugely detrimental to society at large, including those that need to defend themselves, those that rely on others to defend them, business owners and those who rely on them for their livelihoods, farmers, hunters, sport shooters and collectors of firearms.

- b.14 We object to the Bill as this is an attack on the civil liberties and freedoms of our members and stakeholders.
- b.15 We object to the Bill because it proposes to take away the inherent, natural and God-given rights of our members and other stakeholders to effectively and practically defend themselves from unlawful and life-threatening attack.
- b.16 We object to the Bill because government is incapable of protecting the citizenry from criminal elements, as per their own admission. They can therefore not be permitted to interfere in that ability of the citizens.
- b.17 We object to the Bill as it is Constitutionally unsound and as it proposes to effectively and severely encroach on:
- b.17(1) The rights of our members to Human Dignity;
 - b.17(2) The rights of our members to Life;
 - b.17(3) The rights of our members to Freedom and Security of the person;
 - b.17(4) The rights of our members not to be deprived of freedom arbitrarily or without just cause; and
 - b.17(5) The rights of our members to be free from all forms of violence from either public or private sources.

1. INTRODUCTION

1.1 A contradiction in terms

1.1.1 This submission ought to be restricted to the legal and practical aspects of a legislative instrument. Yet it is impossible to approach the exercise on that basis alone. At the heart of the Bill lies the sweeping proclamation, *“To ensure restricted access to firearms by civilians to ensure public order, to secure and protect civilians, and to comply with regional and international instruments on firearms control.”*

1.1.2 We will demonstrate in the text that follows, that this Bill has nothing to do with, and no hope of ensuring public order in the proper definition of that state-of-affairs. There is no rational basis to claim that bringing the Bill into law will enhance the security and protection of civilians. Finally, the vaguely referenced ‘regional and international instruments on firearms control’ are not only wholly irrelevant when compared to the reality of community safety and security in South Africa, but those regional and international instruments on firearms control fall into a clutch of international ‘agreements’ of the category that the ruling party has demonstrated a willing capacity to ignore when it suits it so to do.

1.1.3 It is our submission at the outset that this Bill represents the political ideology of the ruling party in June 2021. We make this assertion because of the rejection of the Bill from the official opposition and other political parties represented in parliament and from widespread condemnation from business, lawful gun-owners and the private sector.⁴ Why the ruling party would seek to deny South Africans access to the primary and most effective means for self-defence at a time when the South African Police Service (SAPS) is in administrative⁵ and operational disarray⁶ is unclear unless it is on the basis of a political objective.

1.1.4 It is relevant that in the same week that this Bill, effectively seeking to disarm South Africans,⁷ Minister Cele increased the police budget for the provision of VIP Protection, simultaneously reducing the police operational budget and freezing salary increases for uniformed personnel.

1.1.5 Most topically, the Institute for Security Studies (ISS) on June 14th released a study based on the analysis of Police data. The study is available [here](#). Two quotes emerging from the study assert:

1.1.5.1 *Data indicates that as many as 52% of murders committed in South Africa (where causes could be established) relate to **organised crime and inter-group violence**; and*

1.1.5.2 **The latest trends suggest a violent future for the country, which still has no national plan to tackle murder.**

⁴ <https://www.sabcnews.com/sabcnews/da-says-50-000-south-africans-signed-its-petition-against-proposed-firearms-control-bill/>

⁵ <https://www.iol.co.za/news/opinion/saps-crisis-a-threat-to-democracy-efaa8181-2366-4aff-be2d-63da0760cdc8>

⁶ <https://www.groundup.news/article/police-commissioner-khehla-sitole-admits-saps-discipline-needs-overhaul/>

⁷ <https://citizen.co.za/news/south-africa/crime/2120550/bheki-cele-expresses-wish-to-disarm-all-private-citizens-in-sa/>

1.2 Failing the National Development Plan (NDP) – the Bill is in content and in consequence at odds with Chapter 12.

1.2.1 Page 386 of the NDP states under 'Introduction': **'personal safety is a human right.** [emphasis added] It is a necessary condition for human development, improved quality of life and enhanced productivity. **When communities do not feel safe and live in fear,** [emphasis added] the country's economic development and the people's wellbeing are affected'

1.2.2 The introduction continues 'High crime levels have slowed South Africa's social and economic development. **Although recent crime statistics released by the South African Police Service show a downward trend,** [emphasis added] especially in murder rates'

1.2.3 It is trite that since the release of the NDP the only aspect of relevant crime events and statistics that has changed is that the **occurrence of crimes of violence – robbery, rape, murder have increased.** The reader is directed to the well-known quote of Minister Cele to Parliament in 2018 – **'South Africans are living in a war zone – yet we are not at war'**. Equally well-known are these facts:

1.2.3.1 Violent crimes have increased since 2018.

1.2.3.2 The Police Service has lost the faith of the people that it is supposed to protect and serve. This has occurred on a number of fronts related to service and notably also during the lockdown of 2020 when SAPS members were encouraged to 'skop en donner' – kick and beat members of the public who were suspected of or found to be breaching lockdown regulations. More recently the SAPS has suffered public embarrassment at its complete inability to respond appropriately to the events of early July 2021.

- 1.2.3.3 Essential services such as those to gather and preserve the forensic evidence chain are in disarray and disrepair to the extent that persons charged with rape and other contact crimes are in certain cases escaping conviction due to a lack of forensics.
- 1.2.3.4 Citizens are justifiably terrified to stop on public roads at night because of various publicised cases of police brutality and unlawful handling of innocent people and the now well-known practice of criminals to use police branding and blue-lights to pull citizens over, assault and rob them.
- 1.2.3.5 There are frequent high-level ructions in the police services, with various generals openly defying the minister of police, and firing one-another in a tit-for-tat public game that further undermines the credibility of the police.
- 1.2.3.6 Corruption is a word regularly associated by the public with various aspects of the police service.
- 1.2.3.7 The public know that guns supposedly under the safe custody of the police are sold to criminals by the very officers who are supposed to keep them away from criminals and that the sale of those guns have resulted in the direct deaths of at least one thousand people.
- 1.2.3.8 Meanwhile competent and law-abiding citizens are waiting up to two years for a licence to possess a firearm so that they can effectively defend themselves and their families against the criminals that terrorise communities.

- 1.2.4 Into this state of affairs, the very police service that is supposed to carry forward the vision of the NDP under chapter 12, seeks to introduce a bill that would rob our citizens of their ability to effectively protect themselves as envisaged by, inter alia, sections 11, 12 and 24 of the Constitution of the Republic of South Africa and broadly by Section 49 of the Criminal Procedure Act, 51 of 1977. Co-incidentally, in the same week that the Minister of Police appeared on television and was interviewed by print media to publicly laud the proposed amendment Bill, telling South Africans that they would not be granted a firearm licence for the purposes of self-defence, he appeared to feel justified in beefing up the already extraordinary protection afforded to Cabinet Ministers and other important people in South Africa.

We are concerned that this Bill is still being considered by the government after the events of July 2021 in which billions of rands of property – fixed and moveable were destroyed in an orgy of violent looting and arson and when the citizens of this country received no protection from the government in their darkest hours, and it was lawfully armed private citizens who provided the nucleus of a community resistance to the criminal looters and arsonists, and it was lawfully armed private citizens who supplied the very police who were supposed to protect them with ammunition so that the police could be involved and finally, it was private citizens who stood with the police to defend the police station at Amanzimtoti.

How can such a Bill (which according to its drafters has the object of '*To ensure restricted access to firearms by civilians to ensure public order, to secure and protect civilians*') even be contemplated in the wake of the demonstration of the complete and utter inability of the government to ensure public order? How can such a bill possibly achieve anything except to satisfy the irrational and ideological aims of the government? How can public order be enhanced by rendering the public at large helpless to defend themselves?

1.2.5 In the interests of brevity, further comment on the NDP in this submission will be curtailed and we simply state that **The South African Police have roundly failed the NDP and very citizens that they have promised to protect and serve.** The Police may be only one chapter of the NDP, but it is an extremely crucial chapter. These words, an excerpt from the introduction to Chapter 12 ought to be kept in mind: **‘personal safety is a human right’**, [emphasis added] and **‘when communities do not feel safe and live in fear’** [emphasis added].

1.3 A dearth of credible research

1.3.1 We wish to be clear that this section addressing research, comprises only a few topical examples of the skewed statistics and irrational assumptions on which the Bill is based. Safe Citizen reserves its rights to fully explore and detail the divergence of fact and circumstance from the assumptions in the Bill and particularly in the document created by the Department of Planning, Monitoring and Evaluation (DPME) in assessment of the requirement for and justification of the development of the Bill (Socio-Economic Impact Assessment System (SEIAS) Report JCPS CAB COMM). Data and alleged research referred to in this document is presently the subject of a formal PAIA application to the DPME which application was formally transferred to and accepted by the Presidency on June 3rd 2021.

1.3.2 On the TV program, SABC Morning Live⁸ on May 28th 2021 Minister Cele in an interview told viewers that **the development of the Bill started ‘with research.’** Minister Cele stated: “We have discovered that the countries that do not give the [sic] individuals the right to own firearms have less violent crime”. The minister specifically referenced Japan and Botswana as examples, continuing to assert that ‘the firearms that they [sic] leave their shops legally they are on the way converted to illegality and they cause trouble, but even when they remain legal they cause a lot of trouble’. Continuing, the minister claimed that ‘When you look at figures that I might give as we go forward, more people are killed by legal

⁸ https://www.youtube.com/watch?v=IbTINTfs_E8

firearms in the hands of their owners, even more than those that are out there illegal [sic].’ This theme (of the Bill being based on research) is regularly referenced by the Minister.

1.3.3 Essentially the Minister of Police is on record on national television telling the nation that more people are killed by licensed guns in the hands of their owners than by unlicensed guns in criminal hands. In the light of this statement, it is clear why the Minister believes it would be better if civilians are unarmed. We cannot find any substantive proof of such a claim by the minister and call into question the essence of his assertion. It simply makes no sense at all.

1.3.4 To return to Minister Cele’s opening statement about the Bill being informed by research **we detail the following relevant instances as a sample** in which our own research calls into question statistics and claims that have been placed on record by SAPS, and the CSP.

1.3.4.1 **UNFACTUAL STATEMENT/FLAWED RESEARCH. “More people are killed by legal firearms in the hands of their owners, even more than those that are out there illegal.”** Minister Cele on SABC as per 1.3.2 above. At the **5th Interpol Firearm Forensics Symposium** (a virtual event attended by around 500 people), SAPS spokesperson Novela Potelwa said ‘the police in the Western Cape through its constant analysis of crime has realised that **‘illegal firearms were the main generators of serious violent crimes in the province’**. The media headline⁹ reporting the symposium proclaimed “Interpol symposium hears how illegal guns fuel violence in South Africa.” This statement is in line with common knowledge of this issue and stands in stark contrast to Minister Cele’s statement. The Minister’s poor grasp of the facts of this issue are most serious and suggest that the founding concepts of the Bill may be based on false logic.

⁹ <https://www.iol.co.za/capeargus/news/interpol-symposium-hears-how-illegal-guns-fuel-violence-in-sa-981522b4-9484-4d7e-862c-049f9fb745f3>

1.3.4.2 **MISLEADING / UNTRUE STATEMENT.** “South Africans should take comfort in the fact that the proposed amendments were not taken lightly, extensive research, consultations with various stakeholders preceded the proposed amendments”. This statement is part of a media release from the office of the Minister of Police on May 25 2021. The research undertaken traditionally represents the views of those who would see South Africans disarmed. A significant stakeholder group (that of persons who support the notion of lawful private firearm ownership) has been marginalised and ignored and there is no proof of consultation with major stakeholders.

1.3.4.3 **MISLEADING STATEMENT IN A SAPS MEDIA STATEMENT.** “Minister Cele says the amendments should not be interpreted as though government is looking into disarming citizens.” To the contrary, it is abundantly clear that the Bill signifies that government is looking into disarming citizens. Here is Minister Cele on record saying exactly that. “Police Minister Bheki Cele has spoken against citizens carrying firearms, saying South Africa would be a ‘better’ place without armed people.”¹⁰ And again in April¹¹. “It would be better if one day we don’t have private citizens having guns at all”¹². “It’s a tall order going forward but it would be better if one day, only the armed forces namely police and soldiers having [access to] guns,” said the Minister.

1.3.4.4 **UNFACTUAL STATEMENT/FLAWED RESEARCH.** South African Firearm ownership data is central to the understanding, by government policy-makers and all stakeholders of the regulatory regime around firearm control. In this paragraph we will demonstrate that figures relied on are inconsistent and unreliable.

¹⁰ <https://www.news24.com/news24/southafrica/news/south-africa-would-be-better-if-citizens-were-not-armed-bheki-cele-20200304>

¹¹ <https://www.sanews.gov.za/south-africa/sa-must-relook-access-firearms-cele>

¹² <https://citizen.co.za/news/south-africa/crime/2120550/bheki-cele-expresses-wish-to-disarm-all-private-citizens-in-sa/>

- 1.3.4.4.1 Although there are a multitude of so-called “scientific papers” and legislator sources that claim to furnish South African firearm ownership data, it is only the Central Firearm Registry (CFR), that is mandated by the Firearms Control Act 2000, Act 60, to have the authority and responsibility to issue competency certificates and firearm licenses, and for keeping registers of competencies and licenses issued. Accordingly the CFR is the only organization that can reliably be considered to possess these details, and the only authority that can claim to supply reliable Firearms registration data.
- 1.3.4.4.2 It is therefore no surprise to find that authorities, lawmakers, and so-called “scientific papers” refer to firearms data, which they cite as originating from CFR. State institutions such as the Civilian Secretariat for Police Services refer many times to CFR data in their Civilian Secretariat Safety and Security White Paper 2016 as does the Western Cape Department of Community and Safety in their paper, The Effect of Firearm Legislation on Crime: Western Cape.¹³ (This makes the 2016 White Paper on Safety and Security¹⁴ especially significant not only within the context of this paragraph but also in terms of its broad influence over the development of policy and draft legislation).

¹³ <https://www.saferspaces.org.za/resources/entry/2016-white-paper-on-safety-and-security>

¹⁴ http://www.policesecretariat.gov.za/downloads/bills/2016_White_Paper_on_Safety_&_Security.pdf

1.3.4.4.3 Both of the reports (Civilian Secretariat Safety and Security White Paper 2016) – the White Paper, and the *Western Cape Department of Community and Safety* (The Effect of Firearm Legislation on Crime: Western Cape)¹⁵ assert that various firearms data was furnished by the CFR. We will prove that this is inaccurate and misleading, by citing specific references which will show in respect of those references, that the actual source of the specific data is Gun Free South Africa (GFSA) and not the CFR.

1.3.4.4.4 On page 13 (7.1) of Annexure C of the White Paper we read: ‘While accurate data on unlicensed or stolen firearms is not consistently available. According to figures supplied by the Central Firearms Registry (CFR), as of August 2011¹²⁶, 2 907 135 firearms were held by civilians under the 1969 Arms and Ammunition Act. A further 138 624 new licenses were issued under the Firearms Control Act (FCA) between 1 July 2004 and 22 August 2011.¹²⁶ An estimated 12 000 firearm applications are handled each month by the police nation firearm office.¹²⁷’

1.3.4.4.5 ‘It is **footnote reference 127** that we now reference.

1.3.4.4.5.1 This is the citation for **footnote 127 on page 25 of annexure C:**

‘127 Gareth Wilson ‘12 000 firearm applications handled per month’ (2015) *Herald Live* Available at: <http://www.heraldlive.co.za/cfr-aim-root-firearm-corruption/> (Accessed: 4 August 2014)’.

¹⁵https://www.westerncape.gov.za/sites/www.westerncape.gov.za/files/the_effect_of_firearm_legislation_on_crime_western_cape.pdf

1.3.4.4.6 Our assertion concerning the reference 127 is as follows:

1.3.4.4.6.1 Citations relied on in a document that guides the policy-makers of national legislation ought to be dependable and be able to be interrogated by all readers of the document. This is not the case as the link furnished by the authors of the White Paper in reference 127 is not operational. Moreover, the publication has not supplied the requested article. We are concerned that the White Paper references an untraceable article seemingly to validate statistics connected to gun ownership in South Africa when the only relevant and mandated source of such statistics is the CFR to which the CSP has direct access.

1.3.4.4.7 It is **footnote reference 126** that we now reference:

1.3.4.4.7.1 This is the citation for **footnote 126 on page 25 of annexure C** *'126 Central Firearms Registry (CFR) (2011) Cited in: GFSa 'Quick Facts: Guns and Violence in SA' (May 2015) 2 Available at: <http://www.gfsa.org.za/about-us/annual-reports/> (Accessed: 28 September 2015').*

1.3.4.4.8 Our assertion concerning the reference 126 is as follows:

1.3.4.4.8.1 The authors state, inter alia, *'While accurate data on unlicensed or stolen firearms is not consistently available'*. We firstly raise this statement as a serious issue in a report of the gravity of the White Paper. This report is accessed by policy makers on a national scale and we are concerned that the Firearms Amendment Bill 2021 has been modelled and drafted, inter alia, on data contained in the White Paper.

1.3.4.4.8.2 Also in reference 126 is the following text: *'According to figures supplied by the Central Firearms Registry (CFR)s.'* This is a false reference. The figures that are supplied under citation 126 in fact originate from GFSA and not the CFR – (The data source is revealed to be **Gun Free South Africa "Quick Facts"**). A document such as the White Paper ought not to rely on statistics furnished by an NGO when a more credible source is directly available to the authors within the SAPS structure.

1.3.4.4.8.3 Further interrogation of the citation 126 – ('126 Central Firearms Registry (CFR) (2011) Cited in: GFSA *'Quick Facts: Guns and Violence in SA'* (May 2015) 2 Available at: <http://www.gfsa.org.za/about-us/annual-reports/> (Accessed: 28 September 2015')). reveals that Gun Free South Africa moved their annual reports to a different site and the above link supplied in the CSPA Annexure C is no longer functioning. GFSA is not a credible source for data that the organisation claims to have received from the CFR, especially when the CFR is directly accessible to the Secretariat.

1.3.4.4.9 It is **footnote reference 137** of Annexure C that we now reference.

1.3.4.4.9.1 *'In 2009 (the most recent year for which data is available), an average of 18 people were shot and killed a day (6 428 people shot and killed in total); half the number of people shot 10 years previously (1998: 12 298 people shot and killed; average 34 people a day).¹³⁷*

1.3.4.4.9.2 Our assertion concerning reference 137 above is as follows:

1.3.4.4.9.2.1 **Reference 137** dealing with crime statistics reported in 2016, is incorrect in that 2009 is the most recent data available. SAPS and the “real source” had data more recent than the claimed 2009.

1.3.4.4.9.2.2 There is the additional problem in that **reference 137** refers to the Chetty book published in 2000. Therefore, the statistics quoted in the White Paper under this citation are called into question. Chetty Book was published in 2000 and so cannot speak to statistics from 2009, which were not even the most recent statistics available as is claimed in paragraph 1.7 of annexure C of the White Paper.

1.3.4.4.10 It is **footnote reference 138** of Annexure C that we now reference.

1.3.4.4.10.1 *‘In 2011 licensed civilian gun owners represented 3.6 per cent of the total population and there were 5.9 licenced firearms per 100 people.’¹³⁸*

1.3.4.4.10.2 **Reference 138** refers to the Chetty Book which was published in 2000. The Chetty book cannot speak to firearms or population statistics from 2011.

1.3.4.4.11 In conclusion, these brief instances of *unfactual statements or alternatively flawed research* are submitted as representative examples of the unsupported assumptions and statements to be found in the Bill and in the SEAIS completed by the Department of Planning, Monitoring and Evaluation, which document itself was posted on the CSP web site. **We are concerned that national legislation is influenced and guided by unreliable data and that the reliance of policy-makers and even the Minister of Police on**

‘research’ has been compromised. Notwithstanding any other facet of the contemporary debate on private firearm ownership we are all dealing with civil rights in connection with community safety and security and all of the data (purporting to be valid research) in documents such as the White Paper must be unimpeachable – and it is not.

1.4 Time Period Allotted for Comment and Submissions on the Bill. The time period allotted for comment on the Bill is simply unworkable. This is a material revision of virtually an entire Act with far-reaching implications for all South Africans. Even had there been bona fide discussion and consultation with all stakeholders as has been untruthfully claimed by the sponsors of the Bill this is still an enormous undertaking for any person or institution wishing to avail himself of the opportunity to meaningfully participate in public comment.

1.4.1 The draft Bill was only made available for comment on 24th May 2021 with a deadline for comments on 4 July 2021.

1.4.2 Upon studying the Bill, we note that it contains many unconstitutional provisions to which we are totally opposed. We are duty bound as a community NPC to consult as widely as possible with our members on the nature of the objections in our submission. Our membership-base is wide and varied as are the communities that we vicariously represent. Safe Citizen is a forum for all South Africans concerned about Safety and Security.

1.4.3 We are aware that apart from our own membership, most, if not all, other associations in the firearms industry including civil society, are equally opposed to the Bill and have indicated on common fora that they need sufficient time to prepare their submissions. In addition we need sufficient time to consult with all those stakeholders so that we can ensure our input on the Bill is comprehensive.

1.4.4 There has been no consultation with Safe Citizen as referred to in the introduction of the Bill. Safe Citizen is an important stakeholder in these issues and we are gravely concerned about the historical lack of engagement from the Secretariat, which includes the recalcitrance (since February 2021) of the Secretariat to conclude an important and simple Memorandum of Understanding with Safe Citizen.

1.4.5 Further various reports and documents, which are voluminous in nature and which appear to have a direct bearing and influence on the Bill, were released late on 26th June 2021, on the Secretariat website. It can be said that within the context of the Bill, the Amendment Bill is like a tree, and at the roots of that tree are the Wits report, the White Paper 2016, much data in the public realm under the auspices of anti-gun lobby groups as well as government presentations to our policy-makers. Consequently, the data contained in and interrelated between the various reports and the Bill demand considerable, sustained, expert and resource-hungry investigation before we can appropriately comment on the Bill within our mandate from South Africans and with a view on the Constitutional provisions that we have a duty to protect.

1.4.6 Accordingly, it must be noted that we submit this comment as a preliminary response based on the bare facts to hand, a lack of meaningful data and a woefully inadequate time period. We fully reserve our rights to comment and be heard in appropriate detail in a properly constituted forum at a later stage, including should it become necessary approaching a Court for relief.

1.5 **The socio-economic impact assessment System (SEIAS)**, and the 'Initial Impact assessment Template'¹⁶ as posted on the CSP web site and labelled (Phase 1) dated July 2016. This document has been reviewed in general terms and is the subject of a formal application to the Department of Planning, Monitoring and Evaluation (DPME) in terms of the PAIA.

¹⁶ http://www.policesecretariat.gov.za/downloads/FAC_Bill/5_SEIAS_Report_JCPS_CAB_COMM.pdf

1.5.1 When considering the opening paragraph of this assessment, which reads as follows: *'The Initial Impact Assessment: Firearms Control Amendment Bill. The Initial Impact Assessment aims to ensure that the policy is on the right track by requiring evaluation of alternative approaches. It should help drafters avoid finalising an inappropriate solution because they moved too quickly to select a strategy without adequately analysing the roots of the problem and considering alternative measures. It should facilitate a brainstorm about issues involved in the problem and full range of alternatives to deal with them...'* we comment:

1.5.1.1 The assessment claims a requirement to *'ensure that the policy is on the right track by requiring evaluation of alternative approaches'*. There has been no consultation with major stakeholders in this matter. In fact, organisations representing lawful firearm owners have been systematically and consistently excluded from any consultation at all.

1.5.1.2 The drafters refer to *'avoid finalising an inappropriate solution because they moved too quickly to select a strategy without adequately analysing the roots of the problem and considering alternative measures'*. The Bill exactly represents an inappropriate solution. The roots of a problem within the context of proposed national legislation that affects the broad community ought to be analysed, inter alia, by valid and peer-reviewed research, by consideration of relevant empirical data, and by consulting with stakeholders across the spectrum. This has not happened. **The document presents itself as a 'Phase 1, Initial Impact Assessment' but cannot in reality claim to be anything more than a one-sided, facile, subjective and un-scientific approach to a matter of vital importance to South Africans, suggesting a strategy and measures that go to the root of various Constitutional rights.**

1.5.2 Therefore, at a fundamental level this document – unmistakably presented by the Secretary of Police as the motivation for the Bill – fails to achieve its stated aims. It cannot pass muster and this fact shines an unfavourable and critical light on the very *raison d'être* of the Bill.

2. Ad Section 1 of the Bill

2.1 **Ad sub section (c) – dedicated hunter.** We cannot support the broad definition of ‘qualifies to engage in hunting.’ Hunting by its very definition¹⁷ is an activity that has been practiced by man for tens of thousands of years. It is within the ambit of the Bill to specify that a person must be a dedicated hunter who is registered with an accredited association who is authorised to confer dedicated hunter status on such a person subject to specific criteria (the prescribed manner). It is not within the ambit of the Bill to attempt to define what qualifies – or for that matter – disqualifies a person to engage in hunting. As it presently stands it is completely lawful for any person to be able to engage in hunting at an appropriate place and with a licensed firearm. This sub-section must be amended to remove the words ‘who qualifies to engage in hunting.’

2.2 **Ad sub section (d) – dedicated sports person.** We cannot support the broad definition of ‘qualifies to engage in sports-shooting under this Act.’ Sport shooting by its very definition¹⁸ is an activity that involves It is within the ambit of the Bill to specify that a person must be a dedicated sports person who is registered with an accredited association which association is authorised to confer dedicated sportsperson status on such a person subject to specific criteria (the prescribed manner). It is not within the ambit of the Bill to attempt to define what qualifies – or for that matter – disqualifies a person to engage in sports-shooting under this Act. As it presently stands it is completely lawful for any person to be able to engage in sports shooting at an appropriate place and with a licensed firearm. This sub-section must be amended to remove the words ‘who qualifies to engage in sports-shooting.’

3. Ad Section 2 of the Bill

¹⁷ Hunting, sport that involves the seeking, pursuing, and killing of wild animals and birds, called game and game birds, primarily in modern times with firearms but also with bow and arrow. (<https://www.britannica.com/sports/hunting-sport>)

¹⁸ Shooting sports is a collective group of competitive and recreational sporting activities involving proficiency tests of accuracy, precision and speed in shooting — the art of using various types of ranged firearms, mainly referring to man-portable guns (firearms and airguns, in forms such as handguns, rifles and shotguns) and bows/crossbows. Different disciplines of shooting sports can be categorized by equipment, shooting distances, targets, time limits and degrees of athleticism involved. Shooting sports may involve both team and individual competition, and team performance is usually assessed by summing the scores of the individual team members. (https://en.wikipedia.org/wiki/Shooting_sports)

3.1 Ad sub section (a)

"To ensure restricted access to firearms by civilians to ensure public order, to secure and protect civilians, and to comply with regional and international instruments on firearms control."

3.1.1 It is crucial that this paragraph is read in conjunction with the stated objects of the Bill, (and in respect of this Paragraph 1.1), page 3 (preamble) of the Firearms Amendment Bill 2021 (the Bill) with reference to the following text on that page:

"To provide that no firearm licences may be issued for self-defence purposes"

3.2 This proposed amendment appears to pre-suppose that public order will be ensured by restricting lawful private access to firearms by civilians.

3.2.1 Public order by common definition is defined by the United States Institute of Peace as¹⁹ 'a condition characterized by the absence of widespread criminal and political violence, such as kidnapping, murder, riots, arson, and intimidation against targeted groups or individuals.'

3.2.2 Act 60 as it presently stands is more purposefully descriptive of the purpose of the Act and should be retained. The proposed section 2(a) is extremely broad and vague, making sweeping assumptions on the basis of a narrow approach to dealing with lawfully armed and law-abiding civilians.

3.2.3 Further references that support this definition of public order may be found at ²⁰ and ²¹. In criminology, public-order crime is defined by Siegel (2004) as "crime which involves acts that interfere with the operations of society and the ability of people to function efficiently", i.e. it is behaviour that has been labelled criminal because it is contrary to shared norms, social values, and customs.

¹⁹ <https://www.usip.org/guiding-principles-stabilization-and-reconstruction-the-web-version/rule-law/public-order#:~:text=Public%20order%20is%20a%20condition,against%20targeted%20groups%20or%20individuals.>

²⁰ https://en.wikipedia.org/wiki/Public-order_crime

²¹ <https://www.lmplusconsulting.com/wp-content/uploads/2016/11/Understanding-Public-Order.pdf>

3.2.4 Collins Dictionary of the English Language (1979:1034) gives us an example of the positive approach, defining (public, social) order as “a peaceful or harmonious condition of society”. However, the most common perception of public order is based on the negative approach, defining what it is not – i.e., disorder, unrest, disturbance, violence, vandalism and so on.

3.2.5 For the purposes of this comment and having regard for the subject at hand i.e., public order and protection of civilians, it is now essential to define ‘civilian’ and to draw a distinction between two categories of civilians that are relevant in this comment on the Bill, i.e., *criminals* and *law-abiding citizens*.

3.2.5.1 Firstly, a civilian in the general use of the term²² is defined as "a person who is not a member of the police, the armed forces, or auxiliary services such as a fire department." This use distinguishes from persons whose duties involve risking their lives to protect the public at large from hazardous situations such as crime, fire, terrorism, riots, conflagrations, and wars. The Cambridge Dictionary agrees and simply states²³: ‘a person who is not a member of the police or the armed forces’.

3.2.5.2 Having defined ‘public order’ and ‘civilian’ we address a sub-division of ‘civilians’ into two categories, namely, (a) law abiding citizens and (b) criminals.

3.2.5.3 A law-abiding citizen is (in general use of the term) understood to meet the conditions of this definition: ‘A law-abiding person always obeys the law and is considered to be good and honest because of this²⁴.’

²²https://www.google.com/search?q=what+is+the+definition+of+a+civilian&rlz=1C5CHFA_enZA702ZA702&oq=what+is+the+definition+of+a+civilian&aqs=chrome..69i57j0i22i30i5j0i10i22i30j0i22i30i2.8242j1j7&sourceid=chrome&ie=UTF-8

²³ <https://dictionary.cambridge.org/dictionary/english/civilian>

²⁴ <https://www.collinsdictionary.com/dictionary/english/law-abiding>

3.2.5.4 According to Collins Dictionary²⁵ a criminal is (in general use of the term) understood to meet the conditions of this definition: ‘a person charged with and convicted of crime and/or a person who commits crimes for a living’.

3.2.5.5 Within this context and looking at the distinction drawn between a law-abiding citizen and a criminal, it is important to consider that ‘law-abiding’ means law abiding with respect to behaviour and activity within the context of public order in and around the possession and use of firearms as envisaged by Act 60 of 2000. For the purposes of considering criminal behaviour and the negative effect thereof on public order within the ambit of the Bill, we are therefore not concerned with irrelevant infractions of the law such as parking a motor car in contravention of a road traffic sign²⁶.

3.2.5.6 It can thus be argued that all civilians who fail to satisfy the definition of law-abiding citizen may in appropriate circumstances and specifically within the context of Act 60 of 2000, meet the definition of a criminal.

3.2.5.7 The point that we make is that law-abiding citizens pose no impediment to the desirable state of public order within the context of Act 60 of 2000 as read with the Bill. If it is true that public order is supported and desired by law-abiding citizens, then it follows that criminals conversely act against the concept of public order and that in this case the criminals in this matter should be clearly defined in our minds as the persons who act contra bonos mores²⁷ (against good morals: harmful to the moral welfare of society) and that establishes that every other civilian who is not a criminal can be seen to support and observe the Firearms Control Act (60 of 2000).

²⁵ <https://www.collinsdictionary.com/dictionary/english/criminal>

²⁶ Such ‘criminal’ activity although holding the potential to attract ‘criminal’ liability cannot be reasonably seen as undermining public order and the protection of civilians in terms of the objectives of the Firearms Amendment Bill 2021.

²⁷ <https://www.merriam-webster.com/legal/contra%20bonos%20mores>

- 3.2.6 Accordingly, it is our view that the drafters of the Bill have erred in the assumption that lawfully owned firearms in civilian possession militate against a state of public order or for that matter, that the public in general require protection against lawfully armed civilians. There is simply insufficient proof that lawfully armed civilians disrupt public order. While the converse is true of criminals and it can be said that it is criminals, armed and unarmed that undermine public order and place the safety of the public at risk.
- 3.2.7 Act 60 of 2000, as amended presently establishes a strict procedure and requirements to be satisfied by all applicants for a licence to possess a firearm and provides for significant sanctions available to the Court with as much as a 15-year jail term for various contraventions of the Act.
- 3.2.8 The circumstances and conditions that are endemic to South African society²⁸ establish most pressing a need for law-abiding civilians to be equipped to lawfully employ an effective method of defense – both private and personal. This need and right is clearly established in Section 12(c) of the Bill of Rights ‘to be free from all forms of violence from either public or private sources.’
- 3.2.9 The intent of the drafters of the Bill (to provide that no firearm licences shall be issued for the purposes of self-defense) is at odds with Section 49 of the Criminal Procedure Act which clearly stipulates the circumstances under which the use of deadly force may be employed when facing a life-threatening attack. It is, inter alia, this statute which provides civilians the right to effectively secure and protect themselves and other law-abiding civilians.

²⁸ The endemic circumstances and conditions that militate against the maintenance of public order and the safety and security of law-abiding citizens are detailed with references in Annexure ‘A’ hereto.

3.2.9.1 In June 2001 and May 2002 South Africa's two highest courts gave leading judgments on Section 49.4 of the Criminal Procedure Act²⁹.

3.2.9.2 Essentially the courts indicated that in terms of South Africa's Constitution the use of lethal force for arrest is justified for offences of serious violence but not for property offences not involving violence or the threat thereof.

3.2.9.3 The legal position relating to the use of lethal force is defined by the common law provisions regarding self (or private) defence.

3.2.9.4 Private defence. The core provisions of law which justify the use of force are common law provisions. Common law defines the circumstances in which the use of force in 'private defence' may be justified. A person acts in private defence if he defends himself or somebody else against an unlawful attack upon life, limb, property, or dignity. In daily parlance this ground of justification is often referred to as 'self-defence'. But this description is too narrow, since it is not only persons who defend themselves but also those who defend others who can rely upon this ground of justification.

3.2.9.5 The right to use force in private defence is of general application and therefore applies to everyone in South Africa including members of the police service. In 1995 in the case of *S v Makwanyane*, the Constitutional Court confirmed that the right to private defence is upheld by the Constitution. The court stated that the approach taken in law is to balance 'the rights of the aggressor against the rights of the victim and favouring the life or lives of innocents over the life or lives of the guilty.'

²⁹ ²⁹ <http://www.csvr.org.za/docs/policing/killingandtheconstitution.pdf>

3.2.10 It would be implausible to argue that the South African Police Services (SAPS) should be expected to protect every civilian from a life-threatening attack in the moment of the attack and irrational to suggest that the SAPS would indeed be capable of personally protecting civilians from a life-threatening attack 24 hours a day. To support this assertion, we refer the reader to Annexure 'A' hereto and under a general heading '***Can the South African Police currently fulfil their mandate to protect and serve the public?***'

3.1.11 In specifically seeking (as this Amendment Bill does) *"To provide that no firearm licences may be issued for self-defence purposes"* the drafters of this Bill appear inter alia, to have concluded that:

3.1.11.1 South African civilians are not exposed to violent crime; or that if they are exposed to violent crime, the SAPS will be timeously on hand and equipped and able to prevent loss of innocent lives.

3.1.11.2 If indeed it transpires that South Africans are exposed to violent crime they are (or ought to be assumed) to be possessed of some effective method, other than a firearm with which they will be able to protect themselves in self-defence, or to come to the aid of a family member or innocent third party under the mantle of private defence.

3.1.11.3 That firearms in civilian hands are responsible for the devolution of public order and that the safety and security (protection) of civilians will somehow be enhanced by removing possession of private firearms from civilians.

3.1.12 Our view of this specific objective in Paragraph 2 of the Amendment Bill is as follows:

- 3.1.12.1 The opportunity for a civilian to apply for lawful possession of a firearm is intrinsic and necessary to give effect to the lawful concept of self-defence and private-defence in an effective manner. It is simply not good enough to suggest that a citizen must use a club or a knife, alternatively wait for armed response or the police, and especially when since even the existing Act 60 has contemplated that there are indeed circumstances in which private citizens can justify the lawful possession of a firearm for self-defence. How would the police intend to manage the licences that have already been issued to millions of people for self-defence purposes?
- 3.1.12.2 There is simply insufficient evidence to support the disarming of millions of South African civilians for the purposes of 'ensuring public order'. The drafters have failed to show at all how lawfully armed civilians are a general and substantial threat to public order. Conversely, there is evidence to hand detailing the daily statistics of murder, rape and other violent crime in South Africa that indisputably does undermine public order, and further evidence that establishes without any doubt at all that the SAPS are unable to respond in time to most incidents involving violent crime.
- 3.1.12.3 There is insufficient evidence to show that by disarming of millions of South African civilians that civilians will somehow be more secure and protected from criminals.
- 3.1.12.4 Moreover, it appears that the drafters have both concluded and seek to create the impression that guns (from civilians) are those guns that are used by criminals in the perpetration of violent crime against innocent civilians. The drafters appear to ignore relevant and available statistics relating to the loss of guns in non-civilian hands which contribute significantly to guns in criminal hands. We assert that most unlicensed guns in criminal hands may also be originating from these sources:

- a) Firearms lost, stolen from, and robbed from the SAPS, SANDF, Metro Police Forces and other official agencies³⁰ which incidents occur in the public realm but also within the confines of military installations and police stations and other official buildings where one would expect of high standard of security and care over state-owned firearms and ammunition.
- b) Firearms sold directly into the criminal underworld by corrupt SAPS officers. Many of these firearms were handed in by law-abiding citizens for various reasons and under the provisions of various amnesties, while others were recovered in arrests.
- c) Large numbers of firearms that were once part of the arms caches collected and established by various political parties pre-1994.
- d) Firearms handed to civilian criminals by employees of the State Security Agency to be used in the commission of various crimes.
- e) Firearms that enter our country across our porous borders.

3.1.13 We are convinced that to deny law-abiding civilians the right to possess a firearm for the reason of self-defence would effectively achieve exactly the opposite of the amendment sought. Such a law would in effect bring about a massive destabilization of public order and result in a guaranteed decrease in security and protection of civilians.

3.1.13.1 Effective self-defense (freedom from violence) is not only a right afforded to us by our own Constitution, but it is underpinned by the concept of self-defense which is an inalienable right of every human being that no person may deny to another for any reason.

³⁰ See paragraph A1 of annexure 'A' hereto

3.3 We now address the second portion of Section 2 of the Bill. **‘... and to comply with regional and international instruments on firearms control’.**

3.3.1 Firstly, the reference to ‘international instruments on firearms control’ is embarrassingly vague and ought to be removed from paragraph 2 in its entirety because the drafters of the Bill make no effort to reference what they are writing about.

3.3.2 In good faith we will address the existence and title of various international instruments on arms control to which (we may at best assume) the drafters of the Bill seek to reference in their quest to ‘ensure restricted access to firearms by civilians’

3.3.2.1 Resolution adopted by the General Assembly of the United Nations
Resolution 55/255 June 8th, 2001.

3.3.2.2 The Nairobi Protocol for the Prevention. Control and Reduction of Small Arms and Light Weapons in the Great Lakes region and the Horn of Africa - 21st April 2004

3.3.2.3 Protocol on the Control of Firearms, Ammunition, and other Related Material in the Southern African Development Community (SADC) Region - 4th August 2001

3.3.3 Having regard for the general scope and aim of these three initiatives as listed in 3.3.2.1, 3.3.2.2 and 3.3.2.3 above is unhelpful given the lack of clarity in Paragraph 2 of the Bill. One cannot even say if these three documents are those ‘international instruments on arms control’ to which the drafters of the Bill vaguely refer. There are, nonetheless three points which require mention.

- 3.3.3.1 The overwhelming focus on the above initiatives (3.3.2.1, 3.3.2.2 and 3.3.2.3) appears to be control over the movement and proliferation of arms and ammunition across borders in Africa with a special emphasis on ‘conflict states’. The documents, although referencing firearms in ‘civilian’ hands are clearly more concerned with and focused on firearms and weapons in the military context.
- 3.3.3.2 Even were South Africa a signatory to all these initiatives it is important to bear in mind that a protocol developed to respond to security crises in other countries does not naturally establish sound motivation for its wholesale acceptance and enforcement in our country. SA does not suffer from armed conflict, nor does it fit the definition of a ‘conflict state’. We do, however, have a significant problem with violent crime. It is not a given that law-abiding civilians in possession of private firearms should be affected by these ‘international instruments’.
- 3.3.3.3 It ought to be borne in mind that many international agreements and protocols are adopted from time to time and that South Africa is free to pursue what is best for the country and its citizens at a specific time – as has been seen with various other agreements³¹ relating to climate change and international criminal court³².
- 3.3.3.4 It is noted that the Minister of Police in his SABC TV interview stated that South Africa must adhere to International Agreements. The Draft Amendment Bill 2021 also refers to international agreements. However, the draft is silent as to which Agreements the Bill suggests that SA should adhere to.

³¹ <https://mg.co.za/opinion/2021-05-24-mantashe-living-in-alternative-universe-as-he-ignores-international-warnings-on-climate-change/>

³² <https://www.mynewsdesk.com/uk/al-jazeera/news/sudans-bashir-slips-out-of-international-courts-reach-in-south-africa-182123>

- 3.3.3.5 It is impossible to comment on International Agreements if we, the South African public, are not informed as to which international agreements the Draft Amendment Bill 2021 refers. It is noted that the Safety Security White Paper 2016 available at the Government website, does not have any annexures at all. Thus, South Africans accessing the White Paper 2016 from the Government website will not be able to comment on any of the Annexure's A to E.
- 3.3.3.6 The 'Safer Spaces' Website, Safety and Security White Paper 2016 refer to annexure D only as local documents. The text is silent as it does not state or mention any international agreements at all. See ANNEXURE A of this letter. The Civilian Secretariat Safety and Security White Paper 2016 (Annexure D) lists international agreements not mentioned in the main body of the Same White Paper 2016.
- 3.3.3.7 It is noted that none of the Constitutional procedures relating to the signing of International Agreements, and or changes to existing Law have been adhered to.
- 3.3.4 We request that the entire reference to 'international instruments on firearms control' be removed from the Bill on the basis that it is defective as per 3.3.3.7 above and it is irrelevant to conditions in South Africa as more specifically referenced in Annexure 'A' hereto.

4 Ad Section 3 of the Bill

4.1 Page 13

4.2 Ad sub section (2A)(a) on page 13 Principles of Act

4.2.1 The Bill seeks to isolate and underscore a *obiter dictum* comment in the Constitutional Court matter of SA Hunters³³ which used the phrase ‘firearm possession is not a right but a privilege’. The remark was simply a remark in a judgment "said in passing and certainly not part of the judgement in that matter. This APPROACH (in the Bill) ignores the real and demonstrable requirement for citizens to be able to give effect to their Constitutional Rights (to Life and to be free of all forms of violence both private and public), via the lawful possession of a firearm being rationally the only effective means of protection against a violent and life-threatening criminal attack.

4.2.2 There is moreover no evidence at all to argue that ‘public safety’ will be enhanced by pursuing the promulgation of the Bill. This is on the basis that most criminal incidents in which public safety is compromised are incidents in which innocent persons are attacked by criminals, not incidents in which lawful gun owners attack innocent persons. The unfortunate shootings of innocent persons by gun owners are dramatically less than the incidents in which innocent citizens are brutalized and murdered by criminals. This do not establish a case for the mass disarming of the populace, nor sufficient motivation for denying citizens the right to effective self-defence via lawful possession of a firearm.

4.3 Ad sub section (2A)(b)(i) and (ii) and (iii) on page 13 and 14 Principles of Act

4.3.1 The Bill seeks to create the impression that by ‘imposing strict controls on the possession and use of firearms’, and by ‘promoting the safe and responsible use of firearms’ it will bring about an improvement in public safety.

³³ CASE NO: CCT 177/17 HIGH COURT CASE NO: 21177/2016

4.3.2 It is indisputable that Act 60 as amended already provides for specific and strict measures to achieve consistent public safety within the context of lawful behaviour of licensed gun owners and that 'an improvement in public safety' will not be brought about by strengthening legislation that is already suited to the purpose.

4.3.3 Ad (2A)(b)(iii) – 'Providing a framework for a holistic approach to the control of firearms.'

4.3.4 It is not lawfully armed civilians that are a menace to public safety but rather the plague of criminals who are relatively free to ply their violent trade in the face of an under-equipped and fragmented police service. Act 60 of 2000 as amended, were it properly applied by the police and the Central Firearms Registry (CFR) underpins a workable and holistic approach to the control of firearms in civilian hands.

4.3.5 Paragraph 3.2.11.4 and the subsections (a-e) thereto must be read with the comment in this paragraph insofar as they specifically deal with sources of unlicensed guns in South Africa.

4.3.6 Accordingly, this insertion (2A)(b)(i) and (2A)(b)(ii) should be deleted.

4.4 Ad sub section (2B)(a), (b), (c), (d) and (e) on 14 Objects of Act

4.4.1 Sub-section (a). The possession and use of prohibited firearms and self-loading rifles and shotguns is already closely regulated by Act 60 of 2000. There is no need to further regulate this aspect of lawful firearm ownership. The CFR should attend to its work thoroughly and effectively use the legislation that already exists.

4.4.2 Sub-section (b). Act 60 and the CFR systems already provide for an integrated licensing and registration scheme. With reference to an

improvement on the computerization of this function, the firearms fraternity has been trying for an extended time period to assist in bringing about a more streamlined system.

- 4.4.3 Sub-section (c). The submission of detailed motivations for each and every firearm possessed is already a fait accompli. In the event that such a provision were to be adopted, a new applicant should be entitled to be provided with a list of criteria, which according to the SAPS/CFR be regarded as adequate motivation for the lawful possession of a specific class and caliber of firearm under specific conditions. To not detail such criteria exposes any applicant to a completely subjective response from the relevant authority who may thus be empowered to simply deny an application on spurious grounds. Accordingly if this provision is adopted, provide a detailed list of criteria that can be selected and proven by an applicant and also specify if an applicant must meet all or only a few of the criteria.

4.4.3.1 It should also be noted that on this point registered training institutions and bona fide security companies should not be required to separately motivate each and every firearm to be acquired and licensed.

- 4.4.4 Sub-section (d). Act 60 of 2000 as amended already provides strict requirements that must be satisfied in relation to the acquisition and supply of firearms and licensing and renewal of licences. The periodic renewal of licences by licensed gun owners places an enormous burden on the CFR and is the reason for the current impasse in the well-known 'White Licence' and 'Green Licence' conundrum now facing the police. The CFR has been proven materially incapable of effectively managing even the daily flow of new applications, let alone dealing with hundreds of thousands of renewal applications. This provision should be deleted.

4.4.5 Sub-section (e). Act 60 of 200 already specifies exactly how firearms are to be stored when not in use or when not under the licensed owner's control. As far as transporting is considered, private firearm owners are very aware of their obligation to maintain proper control over their firearms in transit. It is unnecessary to strengthen this provision with an amendment of Act 60 as envisaged in the Bill.

4.5 Ad Amendment of section 4 of the Principal Act, as substituted by Section 2 of Act 43 of 2003 and section 3 of Act 28 of 2006 (page 15)

4.5.1 **Ad Section 5(f)** – the insertion in subsection (1) after paragraph (e) (relating to General prohibition in respect of firearms): - (eA) 'any de-activated'. Deactivated firearms are classified and recognised as such after being properly deactivated by a licensed gunsmith. Such firearms usually hold significant sentimental and even heritage value for their owners. There is no justification for this measure which would see the destruction of a large volume of items no more dangerous than a toy gun or a club.

4.5.2 **Ad Section 5(g)**. This amendment (insertion of new text) provides the minister with the power to simply declare all ammunition prohibited. In one declaration, it would be possible for the Minister to effectively disarm every citizen, whether or not the State decided to confiscate firearms simultaneously, thereby denying citizens the opportunity to the most effective method of self-defense against violent crime. Women and families with minor children who are most in need of protection from violent criminal attack and rape would be amongst the first to be negatively affected should such a declaration (as is possible in terms of the wording of this new sub-section) come to pass. If it is the intention of the drafters that the Minister should have the power to declare specific ammunition such as armour-piercing and incendiary ammunition prohibited then and in that event the drafters should apply their minds to developing an appropriate list of such ammunition. The development of various types and classes of ammunition (full metal jacket, lead, soft-nose, hollow-point,

monolithic and frangible) as generally used and available for lawful use by civilians is mostly static and it is therefore not implausible to expect a more detailed focus with regard to the declaration of prohibited ammunition.

4.6 Ad Section 6 Amendment of section 5 of Act 60, as amended by Section 4 of Act 28 of 2006 (page 16)

4.6.1 Deactivated firearms are classified and recognised as such after being properly deactivated by a licensed gunsmith. Such firearms usually hold significant sentimental and even heritage value for their owners. A deactivated firearm is simply that a *deactivated* firearm. Such a firearm holds no more danger or risk than any other *deactivated* firearm, and as such this amendment of the principal Act should be abandoned.

4.7 Ad Section 7 Amendment of section 6 of Act 60 of 2000 (page 16 and 17) sub-section (b) after sub-section(1) the insertion of (1A), (1b), (1C) and (1D)

4.7.1 The amendments envisaged in (1A) are simply unworkable. Such a provision strikes at the heart of dedicated sport shooting which is a discipline pursued by young citizens and which is recognised the world over as an Olympic level sport. To deny young people below the age of eighteen the opportunity to participate in dedicated sport shooting in a discipline of their choice is to advance the Act to an unacceptable level of interference. Hunting too, is a discipline pursued by young persons and it is not uncommon for young persons to be employed on game farms where lawful access to a manually-operated hunting rifle or suitable handgun is required for the purposes of pursuing the business and activities of the game farm, or farming area. If it is the intention of the drafters of the Bill that there should be special measures in place regarding the type of licence issued to persons below the age of eighteen for the purposes of participating in formally recognised shooting sports or for attending to game control and dedicated hunting, then and in that event the drafters ought to apply their minds to creating a specific set of conditions applied to such a class of licence.

- 4.7.2 (1B) – This provision is vague. What entails ‘constant supervision’? Every day? Every shoot? Once a month? Once a year? It is sensible to provide for supervision of new or ‘novice’ shooters by experienced and qualified persons. This sub-section should be re-drafted to provide for realistic and attainable supervision, and it ought to be linked to recorded instances of the attendance of dedicated sport shooting events under the auspices of an approved association.

4.8 Ad Section 9 Amendment of section 8 of Act 60 of 2000 (page 18)

- 4.8.1 Sub section 8(10) The Registrar may refuse the application on good cause The word ‘shown’ should be added after the word ‘cause’ in order to compel the Registrar to provide all information considered relating to a decision to refuse the application (good cause **shown**). Moreover, the new text should make provision for The proposed DFCAB provision should include: a) dedicated and occasional sport shooting; b) dedicated and occasional hunting; and c) professional hunting.

4.9 Ad Section 10 Amendment of section 9 of Act 60 of 2000 (page 20), as amended by section 3 of Act 43 of 2003 and section 8 of Act 28 of 2006.

- 4.9.1 Sub-section (5)(a) This section effectively strikes at the heart of lawful firearm possession for dedicated sport shooting and dedicated hunting for persons under 18 years of age because the possession of a certificate of competency is a sine qua non for the granting of a license to possess a firearm for dedicated sport shooting or for dedicated hunting activities. Hunting too, is a discipline pursued by young persons and it is not uncommon for young persons to be employed on game farms where lawful access to a manually-operated hunting rifle or suitable handgun is required for the purposes of advancing the business and activities of the game farm, or farming area. If it is the intention of the drafters of the Bill that there should be special measures in place regarding the type of licence issued to persons below the age of eighteen for the purposes of participating in formally recognised shooting sports or for attending to game control and dedicated hunting, then and

in that event the drafters ought to apply their minds to creating a specific set of conditions applied to such a class of licence.

4.9.2 The wording of the clause should also make provision for Include the words ***occasional sport shooter*** and ***occasional hunter*** in the text where provision is made only for dedicated persons.

4.9.3 (e)(9)(a) Page 21. 'convicted of any offence that has an element of violence'. It is not uncommon for an oral altercation to result in behaviour that contains an 'element of violence'. This provision is vague and broad as to what constitutes an 'element of violence'. Is it one person pushing another away? Is it one person threatening either by word or by gesture to strike another? Sub-section (b) is more specific and properly caters for dealing with applicants who have been *convicted* of an offence and sentenced to imprisonment without the option of a fine. If it was the intention of the drafters to address persons who habitually are involved in violent offences, they ought to rely on the due process of law to convict and sentence such a person. Alternately they should specify a baseline of the offence(s)³⁴ listed in sub-section (a) and devise a point at which repeated instances (say 3 offences) of such behaviour which result in a conviction will result in refusal to issue a competency certificate.

4.10 Ad Section 11 Amendment of section 10 of Act 60 of 2000 (page 20), as amended by section 9 of Act 28 of 2006.

4.10.1 The periodic renewal of competency certificates by licensed gun owners places an enormous burden on the CFR as well as the DFO network. The CFR has been proven materially incapable of effectively managing even the daily flow of new applications, let alone dealing with hundreds of thousands of competency renewal applications. There is no real basis for the assumption that the holder of a competency is any less competent after 5 years than he is after any period between one and five years, or for that matter for any period beyond five years. Act 60

³⁴ Such has been instituted in Road Traffic Regulations

already has a provision whereby a competency runs concurrently with any valid licence issued in respect of that competency. Having regard for the detailed motivations that are insisted on by the CFR there is no good reason to insist on the renewal of competency every five years. Accordingly Section 9 of Act 28 should stand without amendment.

4.11 Ad Section 13 Insertion in the principal Act after section 11. Reason for requiring a firearm licence. (Page 23)

4.11.1 11A. (1) – This is broad and vague. What is a valid reason? The Bill should be specific for the public to be able to understand under what set of circumstances or criteria they may be assessed by the Registrar as raising a valid reason for the possession of a firearm. Without this qualification the basis of decision is open to subjective reasoning on the part of the Registrar and this is not only inherently unfair and inequitable but it will also lead to inconsistencies in assessment and evaluation – a double-edged sword if one considers that a person who falls short of a valid reason may be able to convince a subjective assessment of a valid reason. Valid reasons that are acceptable and that can be reasonably supported should be defined in every instance for each specific class of firearm and licence section to remove any room for error.

4.11.2 11A. (2)(a) – The repeal of Section (13) and (14) goes to the heart of the notion of self-defence as envisaged and addressed in Section (49) of the Criminal Procedure Act 51 of 1977 and underscored by the Constitution in section 12³⁵. The circumstances and conditions that are endemic to South African society³⁶ establish most pressing a need for law-abiding civilians to be equipped to lawfully employ an effective method of defense – both private and personal. This need and right is clearly established in Section 12(c) of the Bill of Rights ‘to be free from all forms of violence from either public or private sources.’ Annexure ‘A’ hereto, will address this point in more detail and provide relevant references to support this statement.

³⁵ <https://www.justice.gov.za/legislation/constitution/SACConstitution-web-eng-02.pdf>

³⁶ The endemic circumstances and conditions that militate against the maintenance of public order and the safety and security of law-abiding citizens are discussed and set out, with references in Annexure ‘A’ hereto.

4.11.3 The intent of the drafters of the Bill (to provide that no firearm licences shall be issued for the purposes of self-defense which this Bill seeks to valid via the repeal of Sections (13) and (14)), is at odds with Section 49 of the Criminal Procedure Act which clearly stipulates the circumstances under which the use of deadly force may be employed when facing a life-threatening attack. It is, inter alia, this statute which confirms and provides to civilians the right to effectively secure and protect themselves and other law-abiding civilians from unlawful and life-threatening circumstances.

4.11.4 Finally in conclusion of comment on 11A (2)(a) this provision effectively ties the hands of the Registrar in determining that no licence to possess a firearm shall be issued for the reason of self-defence. The comment on this proposed amendment must be read in conjunction with the comment on Sections (2) and (15) of the Bill inasmuch as all of the comment relates to the notion of self defence and the existence of sections (13) and (14) of the principal Act in connection therewith. This proposed amendment 11A (2)(a) should be deleted.

4.12 Ad Section 14 Substitution of section 12 of Act 60 of 2000

4.12.1 (12)(1) the redacted words **[section 13, 14,]**³⁷ must be reversed to form part of the original section (12). Moreover, the amendment from **[every person]** to 'a family member', effectively ignores the need and rational requirement for a common-law spouse to also have access to an effective method of self-defense against an unlawful and life-threatening attack. The question must be asked: Is a fiancé or common-law wife or husband less entitled to the benefits of Section (12) than a wife or husband?

4.12.2 (12)(3). If the drafters of the Bill intend to restrict access to the firearm which is the subject of an additional licence issued under section 12, to the additional licence holder only when such additional licence holder is effectively in or on the

³⁷ We have already commented on the repeal of section(s) 13 and 14 of the principal act and this clause has the effect of interfering in the opportunity for a partner, spouse or other family member to have lawful access

household of the original licence holder then the drafters should address that by specifying that the firearm may only be possessed and used on or in the household (or any household) of the original licence holder. This will alleviate the administrative issues involved and make provision for example for persons who have more than one residence.

4.13 Ad Section 15 Repeal of sections 13 and 14 of the principal Act.

4.13.1 The intent of the drafters of the Bill (to provide that no firearm licences shall be issued for the purposes of self-defense which this Bill seeks to validate via the repeal of Sections (13) and (14)), is at odds with Section 49 of the Criminal Procedure Act which clearly stipulates the circumstances under which the use of deadly force may be employed when facing a life-threatening attack. It is, inter alia, this statute which confirms and provides to civilians the right to effectively secure and protect themselves and other law-abiding civilians from unlawful and life-threatening circumstances. **How can this be contemplated in the light of conditions of crime in South Africa? Do the drafters of the Bill infer that there are simply no circumstances in which a private person may justifiably require lawful possession of a firearm for self defense, more especially in the light of the current Act (60 of 2000) which specifically contemplates circumstances wherein it is deemed that a person may be exposed to circumstances that justify the possession of a firearm for self-defence?**

4.13.2 We propose that the right to own a firearm specifically for the purpose of self – defense, should not arbitrarily be limited to only one firearm, as is the current position in terms of the FCA, as an applicant may very well be able to rationally justify the need for more than one firearm for this specific purpose. By way of example:

- 4.13.2.1 A person has residences in two cities and commutes between those cities by airplane and there are no firearms handling facilities at the airport and need a firearm for self-defense at both locations. There is no justifiable rationale as to why such a person should be denied a self-defense firearm at one of the locations;
- 4.13.2.2 A person needs a handgun for self-defense on the road, but a shotgun for self-defense at home, as it is more effective, especially when defending his or her family against multiple attackers during a violent home invasion;
- 4.13.2.3 A person may very well be able to make a case out that he or she needs to have access to a secondary firearm, to use if he finds himself in a situation where he had to use the primary firearm in a lawful defensive use of the firearm. It is well known that the SAPS will routinely confiscate the primary firearm for conducting ballistic tests. It is also well known that it regularly takes as much as years before the firearm is returned. It is also well known that the SAPS do not process applications for temporary authorisations within reasonable time limits. To effectively deny such a person (through a blanket ban on a second firearm for use in a self-defense situation) access to such a firearm for self-defense when they are at their most vulnerable for a revenge attack by the accomplices of the initial attack, cannot be rationally justified;
- 4.13.2.4 Firearms are complex tools and often need servicing and can malfunction and break or otherwise become inoperable. It cannot be justified to prevent a person from the ability to make a rational case out that that person needs a substitute firearm for instances when the primary firearm is being fixed by a gunsmith or must go back to the manufacturer (a process that implies temporary import and export permits – which is just another example of processes that the SAPS are frustrating).

4.13.3 Finally in conclusion of comment on section (15) of the Bill, the comment on this proposed repeal of sections 13 and 14 must be read in conjunction with the comment on Sections (2) and (15), of the Bill (as well as our paragraph 4.11.4) inasmuch as all of the comment relates to the notion of self defence and the existence of sections (13) and (14) of the principal Act in connection therewith.

4.13.4 The repeal of sections 13 and 14 should be struck from the Bill.

4.14 Ad Section 16 Amendment of section 15 of the principal Act.

4.14.1 15(3)(d) the redacted words **[and section 13]** must be reversed.

4.14.2 (e) It is nonsensical to reduce the amount of firearm licences that may be allotted under section (15) because firearms issued under any other section of the principal Act may be wholly unsuited for the purpose of occasional hunting and occasional sport shooting. Sub-section (e) of section 15 should be deleted.

4.14.3 This proposed change will deny any occasional shooter (both hunting and sport shooting) the right to freedom of association as set out in section 18 of the Constitution.

4.14.4 It further means that by the time a person who is not a land owner or occupier has applied for and received the licence, it will be too late as the licensing period now takes more than 8 months.

4.15 Ad Section 17 Amendment of section 16 of Act 60 of 2000, as amended by section 4 of Act 43 of 2000.

4.15.1 In respect of section 17(d)(c) – principal act (16(2)(c) – We agree that persons applying for a firearm licence in respect of section (16) should be required to prove the attainment of their status as dedicated Sport Shooters. We cannot accept a time period of 2 years wherein an applicant or potential applicant is expected to compete in Sport Shooting activities without possessing his own firearm for that purpose.

4.15.2 (In respect of section 17(e)(5 and 6). Limiting the number of firearms to be possessed under this section does not make sense. Sport Shooters possess these firearms to participate in regular competition and are responsible members of registered sporting associations. By virtue of the nature of the sport the firearms face significant wear and tear and spare parts are extremely difficult to source at short notice in South Africa. Replacement parts such as barrels and main firearm components have been and are subjected to irrational delays and refusals by the Registrar leaving sport shooters who have a genuine ability and skill without a functioning firearm with which to pursue their chosen division of sport shooting. South African shooters participate in international events for their own recognition and importantly for Protea Colours. The present principal Act provides a specific procedure for the motivation of these licences including an association-specific endorsement of a particular firearm as fit for the division in which the applicant is applying. The restriction on the number of licences that can be issued under section 16 should be removed.

4.15.3 In respect of section 17(e)(7) – We agree that persons applying for a firearm licence in respect of section (16) should be required to prove the attainment of their status as dedicated Sport Shooters. We cannot accept a time period of 2 years wherein an applicant or potential applicant is expected to compete in Sport Shooting activities without possessing his own firearm for that purpose. This time period should be curtailed and underscored with strict provisions for the sport shooting association that is conferring dedicated status on the applicant.

4.15.4 In respect of section 17(e)(13) – Further curtailing of licences that can be held under this section by counting licences held in other sections simply hobbles the sport shooter. There are various sections in the Act for good reason. As this proposed amendment would have it an applicant who possesses a shotgun and a hunting rifle for occasional hunting would be entitled to only four sport shooting guns. The division of sections in the current principal Act ought to be observed and maintained and firearms held under one section should not in any way affect licences that may be issued under another section.

4.16 Ad Section 18 Amendment of section 16A of Act 60 of 2000, as inserted by section 12 of Act 28 of 2006.

4.16.1 Substitution of 16A(a)(3) - The practicalities of this redaction [**and for a lawful purpose**] ignores the reality of the situation. In a perfect world a hunter may never have to access a hunting firearm for any purpose other than specifically hunting or escorting clients on a game conservation area. The drafters of the Bill appear to be oblivious to the practicalities of the situation. Consider a professional hunter attending a hunting event with one or more firearms. The hunter must traverse public roads between his home and the hunting event – sometimes hundreds of kilometers away. In the event of a vehicle breakdown, and accident or some other unexpected event, the hunter may find himself exposed to criminal elements and despite having the responsibility of keeping the firearms safe and secure would be prohibited from using one of the firearms under his control in a lawful self-defense shooting. Another example of this would be a group of hunters held at gunpoint on a registered range by criminals intent on stealing a large number of guns. These hunters, in terms of this proposed amendment would be prohibited from using their own guns to stop criminals from stealing many guns and even to save their own lives (here is a reference to an incident on Saturday June 12th 2021 in which a sport shooter was attacked on a public road by criminals wearing SAPS vests and face masks³⁸). In other words, were one of the hunters present to be forced to intervene in a self or private defense, he may be acquitted of a charge of murder

³⁸ <https://www.news24.com/news24/southafrica/news/motorist-2-bogus-cops-killed-in-dramatic-ekurhuleni-hijacking-shootout-20210612>

but still be subject to a 15-year prison sentence for using a hunting rifle to save a life. This redaction is non-sensical and completely unworkable. It must be scrapped.

- 4.16.2 Addition of 16A(a)(5 and 6) after subsection (4) – The limit on the number of firearms to be held by a professional hunter ignores the specific process for the licensing of firearms under section 16A. It is unrealistic to impose a general limit and restriction of this nature. The specific needs and requirements of a professional hunter using ‘tools from .22lr to .458 Winchester Magnum’ will vary from situation to situation and this ought to have been considered by the drafters. This insertion should be deleted.

4.17 Ad Section 19 Amendment of section 17 of Act 60 of 2000, as inserted by section 3 of Act 43 of 2003.

- 4.17.1 Firearms are recognised in South African law as being part of South African heritage. A typical example of such an item is General Louis Botha's own personal firearm used during the Anglo Boer war. Another is a German submachinegun collected by Harry Oppenheimer in North Africa during the Second World War. Both are in private collections.
- 4.17.2 The recognition of firearms as heritage items is encompassed for example by the South African Heritage Resources Act. The South African Heritage Resources Agency formally recognises the role of collectors in preserving South Africa's firearms heritage.
- 4.17.3 Approximately 80% of all heritage firearms are held by individual collectors. This is in line with the global norm. For practical reasons it is not possible for states (or the South African state) to take care of these heritage items. Furthermore, the collecting of these items is primarily an intellectual activity; the background, history and so forth are by far and away the greater part of the collecting activity. Some South African collectors are recognised globally as leading experts in their fields.

- 4.17.4 Firearms collecting in South Africa became formalised after the Second World War and since then, collectors have remained stable as to numbers (there are circa 2500 collectors across the entire country).
- 4.17.5 There has never been a material security incident with a collection being stolen. Collectors who hold restricted or prohibited firearms are required to meet the same security requirements as dealers and indeed, in certain respects greater security requirements.
- 4.17.6 Furthermore, the current regulatory environment for the collecting of firearms in South Africa is the global benchmark. Across the majority of jurisdictions (including Canada, the European Union, Australia and New Zealand), collecting is recognised as one of the few legitimate exceptions to the normal restrictions on firearm ownership. Following the Paris massacres, the EU reviewed their own firearms policies and directives. Following that review, they created a directive in relation to the collecting of firearms which effectively reflected the pre-existing (and currently still existing) collecting regime in South Africa. Our regulatory framework for the collecting of firearms is quite literally, 'global gold standard'.
- 4.17.7 Yet the proposed FCA amendments contemplate that collecting will be 'wiped out' with a single stroke of the pen. No explanation is given for this; no research has been produced to support this; and nor is there any explanation as to what will happen to the not inconsiderable body of heritage firearms that are held by private collectors.
- 4.17.8 The state does not have the capacity to take care of the individual items (the museums are largely full and do not want the items either) and in any event, the state has no people who have an interest in these items and are capable of contextualising these items in a meaningful way. A heritage item only has significance if properly contextualised, absent which it is simply an object. Disconnected from that, it is simply an object. It is collectors who gather this

information and 'connect it to the item'.

4.17.9 None of this is in any way addressed by the policy formulated by the state. Collecting is, with no further explanation, simply proposed to be eliminated in toto.

4.17.10 The proposed repeal is opposed. There are thousands of firearm collectors in South Africa who hold collections that are extremely valuable and worth many millions of Rands. In many cases they also represent massive investments the loss of which mean financial ruin. Collectable firearms are mostly heritage items that tell the story of their development, history, technological, artistic and financial value. The firearms collectors' fraternity is well organized and is accredited in terms of the law. Its members are well disciplined and comply in all respects with the FCA and the Regulations. By repealing this section the provisions of section 18 of the Constitution (108 of 1996) – Freedom of association is violated. The removal of section 17 and section 18 of the FCA and placing further restrictions on occasional sport shooters and occasional hunters means in effect that all collectors associations will cease to exist. In most instances these associations have employees who will lose their jobs and income. This is also a violation of section 22 of the Constitution.

4.17.11 By repealing sections 17, 18 and 93 of the FCA a gross violation of both sections 22 and 25 will take place.

4.18 Ad Section 20 Amendment of section 20 of Act 60 of 2000

4.18.1 The Constitution provides for freedom of trade, occupation and profession. Is guaranteed in section 22 of the Constitution (108 of 1996) – Every citizen has the right to choose their trade, occupation or profession freely.

4.19 Ad Section 21 Amendment of section 20A, 20B, 20C 20D of Act 60 of 2000

4.19.1 20A-"Establishment of Consultative Forum, 20B-Composition of Forum, 20C-Functions of Forum, 20D-Meetings of Forum and administrative support. There is no provision for any civilian oversight or even a tenuous link to civilian input. It is pertinent to place on record that fostering meaningful communication with and input from civilians (the stakeholders) may prevent a recurrence of the present state of affairs in the CFR. We have credibility and ability and a meaningful role to play.

4.20 Ad Section 23 Amendment of section 22 of Act 60 of 2000. Holder of licence may allow another person to use firearm.

4.20.1 (a) This restriction is nonsensical. Is no young person to be able to pursue sport shooting or a young person under tutelage from a qualified adult be permitted to learn to use a hunting rifle? Our young people have a right to pursue sport and target shooting under proper supervision. This amendment is opposed, with the exception of the requirement for the age of 21 for the supervising person.

4.21 Ad Section 25 Amendment of section 23 of Act 60 of 2000. Ballistic Sampling.

4.21.1 This new section is opposed.

4.21.1.1 There is sufficient scientific evidence showing that ballistic sampling is not practical. In this regard reference is made to a comprehensive study by Dr. David Klatzow. The study is readily available but is too voluminous to include here.

4.21.1.2 Taking a firearm to a police station is dangerous in the extreme due to the constant threat of armed gangs attacking persons who will have to wait in queues outside and robbing them of their firearms.

4.21.1.3 The Designated Firearms Officer does not have the technical expertise or equipment to do the sampling and where multiple firearms are concerned does not have the safe storage available.

4.21.1.4 This provision is impractical. The DFO does not have the staff available for this purpose. This provision is impractical as not every person may be available for this purpose.

4.21.1.5 There is not sufficient financial or technical capability in the police to give effect to this. Both manpower and finances are being used for policing duties.

4.21.1.6 The requirement that the owner of a firearm provide a cartridge is impractical and unworkable. Some cartridges are very expensive and may cost in excess of R1000 each in case of the most expensive rifles.

4.21.1.7 This provision is equally impractical and unworkable. There are antique and historical firearms that are so rare that ammunition is no longer available. In these cases the owners have resorted to reloading.

4.22 Ad Section 26 Amendment of section 24 of Act 60 of 2000. Renewal of licences.

4.22.1 This practical solution is supported.

4.23 Ad Section 29 Amendment of section 27 of Act 60 of 2000. Renewals of licences.

4.23.1 These changes are opposed. Already, the CFR is completely unable to cope with the workflow. Five year renewals of the type of document and supporting documents that are required to renew firearm licences place an unfair administrative burden on lawful firearm owners and inter alia, fly in the face of the Promotion of Administrative Justice.

4.23.2 This proposed change must be abandoned.

4.24 Ad Section 30 Amendment of section 28 of Act 60 of 2000. Termination of licences.

4.24.1 As previously stated, in cases where licenses for rare and valuable collections have expired and not renewed in terms of the new Proposed Bill neither of the proposals in section (a), (b) or (c) are either practical or legal in terms of the Constitution. A rare and valuable rifle can cost up to R1 million and to expect an owner to comply with this requirement is not logical or practical.

4.24.2 Of course, as history has shown, firearms are stolen by police and sold to gangsters. Therefor the possibility exists that such a rare firearm may be stolen.

4.25 Ad Section 31 Amendment of section 31 of Act 60 of 2000. Unlicensed trading.

4.25.1 This new provision is opposed. The existing section 31 (3) is in line with ordinary trade and should be retained.

4.25.2 If the proposed new section is enacted it will cause greater costs in trading due to the fact that a dealer will have to take the firearm in stock together with all the required administration involved and then resell the firearm to the prospective **new owner. Obviously at either an inflated cost or by including sizable storage fees.**

4.26 Ad Section 36 Amendment of section 45 of Act 60 of 2000. Unlicensed manufacture.

4.26.1 This new provision is opposed. It is completely unrealistic to force lawful firearm owners to purchase factory loaded ammunition.

- 4.26.2 Firstly, factory loaded ammunition for most of the calibers is imported. This is inordinately expensive and the line of supply is subject to all sorts of phenomena that can influence regular deliveries.
- 4.26.3 Long distance target shooters who use rifles ranging in cost from R80,000 to R200,000 rely on developing their own specialized rounds to be able to perform at long distances.
- 4.26.4 Handgun sport shooters are already being punished by the lack of local gun powder owing to events a Somchem and having to purchase imported powder at three times the price.
- 4.26.5 Tens of thousands of lawful gun owners have invested tens of thousands of rands into reloading equipment will be turned into criminals if this legislation is passed. It is nonsensical and can in no way be alleged to be enhancing public order, and/or the safety and security of the public.
- 4.26.6 There are collectors who are in possession of functional firearms for which commercial ammunition is no longer available.

4.27 Ad Section 51 Amendment of section 84 of Act 60 of 2000. Carrying a firearm in a public place.

- 4.27.1 This new provision is opposed. The existing section is quite clear and enforceable and generally well known. It is suspected that the drafters of the Bill seek to prevent the wearing of personal firearms on the person.

4.28 Ad Section 52 85A NEW ADDITION of Act 60 of 2000. Firearm Storage Permit.

- 4.28.1 SAPS 539 already regulates this activity properly. This amendment is unnecessary.

4.29 Ad Section 54 Amendment of section 91 of Act 60 of 2000. Possession of ammunition.

- 4.29.1 It is simply unworkable to limit the ammunition possessed at any one to 100 rounds. Even Section 13 of the Principal Act permitted 200 rounds.
- 4.29.2 Supplies of ammunition in South Africa are erratic at best and this is evidenced by even countries such as the USA experiencing severe ammunition shortages despite hundreds of manufacturing plants located in that country.
- 4.29.3 If a person qualifies in terms of the voluminous regulations of Act 60 of 2000, to lawfully own a firearm he should not be subjected to arbitrary and impractical restrictions on his right to lawfully use that firearm.

4.30 Ad Section 55 Repeal of section 93 of Act 60 of 2000. Reloading.

- 4.30.1 Firstly, factory loaded ammunition for most of the calibers is imported. This is inordinately expensive and the line of supply is subject to all sorts of phenomena that can influence regular deliveries.
- 4.30.2 Long distance target shooters who use rifles ranging in cost from R80,000 to R200,000 rely on developing their own specialized rounds to be able to perform at long distances.
- 4.30.3 Handgun sport shooters are already being punished by the lack of local gun powder owing to events a Somchem and having to purchase imported powder at three times the price.
- 4.30.4 Tens of thousands of lawful gun owners have individually invested tens of thousands of rands into reloading equipment and these people will be turned into criminals if this legislation is passed. It is nonsensical and can in no way be alleged to be enhancing public order, and/or the safety and security of the public.

4.30.5 Supplies of ammunition in South Africa are erratic at best and this is evidenced by even countries such as the USA experiencing severe ammunition shortages despite hundreds of manufacturing plants located in that country.

4.30.6 If a person qualifies in terms of the voluminous regulations of Act 60 of 2000, to lawfully own a firearm he should not be subjected to arbitrary and impractical restrictions on his right to lawfully use that firearm.

4.30.7 There are collectors who are in possession of functional firearms for which commercial ammunition is no longer available.

4.31 Ad Section 81 section Schedule 1 Transitional provisions. Licensing of muzzle loading firearms.

4.31.1 Section 1B(1) – The Act is referred to as 2017 instead of 2021.

4.32 Ad Section 86 SECTION 86 - Firearm transporter's permit

4.32.1 Proposed addition of subsection 86(4) 'Any person who is not in possession of a firearm transporter's permit issued in terms of this Act' may not transport more than three firearms at a time.

4.32.1.1 There is no rational or logic in this arbitrarily imposed limit on the transport of legally owned firearms. The proven danger posed by the transport of more than three legally owned firearms must first be shown.

4.32.1.2 The proposed addition also does not consider the fact that people from time to time move homes or places of residence. The imposition of this illogical limitation would mean that if a person would move home from Pretoria to Cape Town, he would have to pay a licensed transporter to transport his

property while he could have transported his firearms by himself without additional costs.

- 4.32.1.3 It is also not clear if the wording, "...any person...", refers to the driver of a vehicle in which two or more hunters or sports persons are traveling to a destination, or if the wording refers to each one of the persons in the vehicle individually.

4.33 Ad Section 91 Prohibition on possession of ammunition

4.33.1 Proposed amendments to subsection 91(1)

- 4.33.1.1 91(1) The holder of a licence to possess a firearm referred to in Chapter 6 may not possess more than [200] 100 cartridges for each firearm in respect of which he or she holds a licence.

- 4.33.1.2 Without been given the reasons for this arbitrary and irrational limitation on the possession of number of cartridges, which may be held for each firearm legally owned, no realistic comments can be made.

- 4.33.1.3 It is not clear how and why the arbitrarily number of 100 rounds are prescribed, and why it was necessary to change it from the original already unqualified 200 rounds of the FCA.

- 4.33.1.4 No danger to society has been proven if a legal firearm owner has more than 100 rounds per licensed firearm in his/her possession.

- 4.33.1.5 Proposed substitution in subsection 91(2) and addition of subsection 91(3). Hunters conducting culling operations cannot wait for months for CFR to issue a permit to possess more than 100 rounds as they use much more than that

number over two days of culling operations. They can also not expect dealers to carry adequate stock so that they can regularly buy ammunition from that source, as their business will suffer due to non-delivery on contracts signed with game farmers.

4.33.1.6 Sports persons who are compelled to use more than 250 rounds in a weekend's shotgun related competitions, are negatively impacted in that they will not be able to participate in a chosen sport because of a lack of administrative diligence if CFR is slow in issuing the relevant permits.

4.33.1.7 Similarly, sports persons competing in three-gun competitions over a weekend use more than 100 rounds per handgun, semi-auto rifle and semi-auto shotgun prescribed for that discipline. Participants in long-range gong shooting (i.e., PRS competitions) use more than 100 rounds in one morning session in a competition which frequently stretches over two days.

4.33.1.8 Limiting professional hunters to 100 rounds per licensed firearm is irrational and not practice related at all. Four hunting clients in a hunting party use much more than 100 rounds per licensed firearm. In addition, a professional hunter cannot stop a hunt deep in the bush because the rounds for a specific licensed firearm have been depleted and he needs to source additional rounds for a specific firearm.

- 4.33.1.9 Limiting training providers to 100 rounds per licensed firearm is absolute irrational and undefendable³⁹. These people use more than 100 rounds in training in a morning's session when training more than 5 persons (the norm rather than the exception).
- 4.33.1.10 Limiting security services to only 100 rounds per licensed firearm is irrational and impractical in that their personnel use more than 100 rounds per one day weekly training session. There can be no reason why these people should be negatively impacted in their ability to use firearms with confidence and with safety to the public.
- 4.33.1.11 If there is no time limit on the Registrar to finalise an application for a permit as proposed here, the exercise becomes futile as the application will just be ignored and not administratively attended to by CFR. The above examples of use of more than 100 rounds per occasion is adequate proof of the irrationality of this proposed amendment.
- 4.33.1.12 Currently applications for temporary export permits to hunt in neighbouring countries, applications for barrel changes, and applications for calibre changes are just not attended to by CFR. Proof for this statement is contained in large numbers of these kinds of applications of members just not being attended to or answered. There exists adequate proof of applications for barrel changes, which are outstanding for more than 18 months.

³⁹ <https://www.wrsa.co.za/hunting-industry-key-to-economic-growth-and-transformation/>

4.33.1.13 The irrational and arbitrary nature of this proposed amendment is proof that the composers of the Bill did not consult with relevant stakeholders before endeavouring to write law on a subject matter they clearly have no understanding of, or care to try and understand. The premise against which this amendment is proposed, is wrong and has not been proven to avert any purported danger to society just because legal firearm owners are limited in the number of rounds, which rounds they realistically use for participation in hunting, sport shooting, professional hunting and for training purposes.

4.34 Ad Section 93 Loading or reloading of ammunition

4.34.1 Proposed deletion of current section 93 refers. Legal firearm owners reload to achieve high standards in precision shooting, be that to adhere to the ethical requirements of hunting or professional hunting or for high level participation in precision sport shooting disciplines (handguns, rifles, and shotguns). It is common knowledge in the international shooting world that a specific firearm's barrel delivers required precision shooting results with a specific bullet make and type, bullet weight, and length of bearing surface of the bullet, charge weight of propellant, primer type, and cartridge casing type. It is also common knowledge in the international firearms shooting world that no two rifle or handgun barrels are the same, and each requires its own combination of the mentioned precise components to achieve the precision serious shooting requires.

4.34.2 Factory ammunition just cannot achieve the same precision in shooting than what can be achieved through reloading. If one would want to search for a specific make of factory ammunition which ascertains precision shooting results in one sport shooting rifle, it will entail that one would have to buy at least eight different makes of cartridges to test which one will deliver the required precision in for instance the precision shooting of

one's long-range shooting rifle over distances of 1,500m and further. This is an internationally acknowledged fact in the use of precision shooting firearms.

4.34.3 Continuous availability of the specific factory ammunition chosen in the above context, is highly dependent on availability with dealers who do not always hold enough stock. For the professional hunter this situation is detrimental to conducting a successful business. If he cannot buy the required make of ammunition which works best in his/her rifles, the hunting business will close because s/he will not be able to guide his/her clients with safety with backup firearms as s/he has no ammunition for that specific firearm. It is even worse if a client hires a firearm from a professional hunter on a two or three hundred thousand Rands worth hunting excursion, and the professional hunter cannot provide adequate numbers of ammunition for that rifle. It is thus an absolute business requirement for professional hunters to be able to reload his/her own ammunition to successfully conduct their hunting business.

4.34.4 Cost of ammunition is another factor which is countered by purposeful reloading. A packet of 10, 500gr, cartridges for a 500 Jeffery rifle used by professional hunters and hunters alike to hunt dangerous game, costs R3,078 at the firearms dealer (thus R307.80 per cartridge). A reloader can with safety reload one of these cartridges for R103.00 if the casings are used for the first time. For the second and consecutive reloading of the same 500gr cartridge for the 500 Jeffery, the cost comes down as the casings can be used again. In some .30 calibres it is known that high quality casings can be reloaded as many as 15 times.

4.34.5 Apart from the need for accurate ammunition for precision shooting, cost is thus also a very important factor considered when reloading ammunition.

- 4.34.6 In addition, the purchase of reloading equipment does not come cheap, and a reloader must save specifically to buy relevant quality precision reloading equipment. Cost to equip a relatively average private reloading facility can over time easily run into hundreds of thousands of Rands worth of reloading equipment, and firearm related cartridge building parts.
- 4.34.7 Private reloading is thus not about hoarding of ammunition, but about the reloading of quality precision shooting ammunition. It is also a serious cost saver for the serious hunter, and sport shooter.
- 4.34.8 The imposition of the irrational proposal of possessing only 100 rounds per firearm to be implemented in combination with the prohibition of reloading, will not only influence firearms dealers and shooting ranges as described in paragraph 26, but will have a serious negative effect on the economic viability of the approximately 15,000 game ranches/farms in this country. Hunters, who are the economic driving force for this sector, will just not be able to hunt as frequently for lack of adequate ammunition as they currently do.
- 4.34.9 The contribution of Commercial Hunting to the game farming, safari and wildlife sector in this country is calculated at R12 billion per annum⁴⁰. This income will be eroded, and many game ranches/farms will either close or switch to domestic animal and crop farming. The effect thereof on the success of the recovery of the game numbers in this country will be dramatic and it will result in thousands of jobs being lost, with resultant serious economic decay in rural areas.
- 4.34.10 The tourism sector in rural areas, which is currently benefiting from national hunting tourism, will also be dealt a death knell, as will all game processing businesses and taxidermy businesses. Thousands of jobs thus stand to be lost, just because of irrational amendments to the FCA.

⁴⁰ <https://www.wrsa.co.za/hunting-industry-key-to-economic-growth-and-transformation/>

- 4.34.11 Specific firearms and adequate high quality reloaded ammunition are the basis of hunting. Placing illogical limitations on these two “tools” of hunting will have serious economic consequences and it is suggested that the Minister of Police must be ready to defend the implications of economic loss as well as disowning of property in court.
- 4.34.12 It is thus highly questionable as to how the composers of the Bill can in paragraph 3 on page 133 of the Bill, declare that the Department of Environmental Affairs and the Department of Tourism agreed that the proposed amendments to the FCA should be imposed. Either the representatives of the two departments were seriously lacking in understanding the subject matter they were asked to comment on, or they were only consulted in a very quick manner without all amendments and the implications thereof being explained to them. It is seriously disappointing that the Minister of Police and the composers of the Bill can then even try to state that they had consulted widely before the Bill was made available for comment by the public. There is a serious challenge to the truth of the declaration in paragraph 3 on page 133 of the Bill.
- 4.34.13 The reloading requirements for serious sport shooters are like the requirements of the hunter. Precision shooting is a prerequisite for high level participation, and this can only be achieved if a sport shooter can reload his/her own ammunition.
- 4.34.14 The negative economic effect on shooting ranges if limitations in participation in sport shooting, will be the result of irrational deletion of legal private reloading of ammunition for each of a sport shooter’s discipline specific and specialised firearms.
- 4.34.15 The question remains as to how it is legally possible that an activity (reloading) can be legal today and be declared illegal tomorrow without researched proof that reloading poses dangers to civil society.

4.34.16 Without being able to reload, hunters, sports persons and professional hunters are being prejudiced by an irrational amendment, which once again proves the fact that the composers of the Bill have no idea of, or grasp for, the subject matter they purport to write law on.

4.35 Ad Section 120 – Offences. Proposed addition of subsection 120(5)(c)

4.35.1 *A person is guilty of an offence if he or she gives control of a firearm, an antique firearm, or an airgun to a person whom he or she knows, or ought reasonably to have known-*

(a) to be mentally ill; or

(b) to be under the influence of a substance which has an intoxicating or a narcotic effect.

(c) to be a child under the age of 16 years.

4.35.2 This arbitrarily imposed offence is devoid of any rational logic. No researched proof for danger to a child under 16 years of age in the use of a firearm can be presented.

4.35.3 Children are taught firearm safety and use by parents from as young an age as 10 years. It is not certain whether government will start imposing age limits on when young people may start to participate in soccer or any other sport.

4.35.4 Children participate in air rifle and air pistol shooting competitions from 10 years of age and receive Protea colours from the age of 14 for .22LR rifle and pistol shooting. There can be no rational reason why these young people should be denied the right to choose the sport they would want to participate in.

4.35.5 Please also see relevant comments under paragraph 9.3 above.

4.36 Ad Section 124 - Functions of Registrar.

4.36.1 The proposed amendments to section 124, with inclusion of prescribed functions for the Designated Firearms Officer (DFO), is welcomed and supported.

4.36.2 The inclusion of section 125A and 124B are welcomed and supported.

4.37 Ad Section SECTION 147 - Disposal of firearms in case of death.

4.37.1 The addition of subsection 147A regarding deceased estate firearms is welcome and supported

4.38 Ad AMENDMENTS TO SCHEDULE 1 OF FCA - Proposed insertion of Item 1B after Item 1A:

4.38.1 No Firearms Control Amendment Act 2017 could be sourced anywhere in any Government Gazette. The amendment Act referred to is possibly the Firearms Control Amendment Act, 2006 (Act 28 of 2006).

4.38.2 There can be no rational reasoning for licensing muzzle loading firearms. A competency certificate has been adequate since 2006. It is not clear which research has indicated. that muzzle loading firearms pose a threat to civil society or could be used in perpetrating domestic violence.

4.38.3 Proposed insertion of Item 1C after Item 1B – *‘licensing of percussion cap-and-ball firearms’*

4.38.4 No rationale can be presented why a person has two years to licence a muzzle loading firearm, and only 18 months to licence a percussion cap-and-ball firearm.

- 4.38.5 As is the case with the sudden requirement to licence muzzle loading firearms, there can be no rational reasoning for licensing percussion cap-and-ball firearm. A competency certificate has been adequate since 2006. It is not clear which research has indicated that percussion cap-and-ball firearms pose a threat to civil society or could be used in perpetrating domestic violence.
- 4.38.6 Proposed insertion of Item 1E after Item 1D. No rationale can be presented why a person has two years to licence a muzzle loading firearm, and only 18 months to licence actions, frames, and receivers.
- 4.38.7 Proposed insertion of Item 1F after Item 1E – The clarification of the situation regarding the validity of the so-called green licences is welcomed and supported.
- 4.38.8 Proposed insertion of subitems 3A & 3B in Item 11 – ‘*Apply for corresponding licence*’ - As indicated the clarification of the situation regarding the validity of the so-called green licences is welcomed and supported.
- 4.38.9 Proposed insertion of Item 1G after Item 1F – ‘Validity of competency certificates’ -The situation regarding the validity of current competencies and firearm licences is noted.

ANNEXURE 'A' TO FORMAL SUBMISSION – SAFE CITIZEN NPC PROPOSED FIREARMS AMENDMENT BILL 2021

This annexure contains copies of media statements and
relevant correspondence

Referring to media as a relevant source

It is trite that the government, and topically, in this context, the Minister of Police make frequent use of the media in general to disseminate empirical and anecdotal data. Accordingly, there ought to be no adverse inference drawn by the reader of this submission in connection with the referencing of media articles, reports, editorials and opinions.

The following links to articles comprise a snapshot of media commentary from around May to July 2021. There is overriding criticism of the SAPS within the context of being able to fulfil its mandate to protect and serve. Even prior to the looting and riots, attacks and intimidation of people in July 2021, it is pertinent to quote Minister Cele's now famous statement to parliament in September 2018 - 'South Africans are living in a war zone, but we are not at war.'

The government ought to re-assess the rationality of seeking to disarm law-abiding citizens in South Africa in the incontestable light of the crime situation and the inability of the South African police to protect the public.

TABLE OF ANNEXURES

Title / Subject	Web link or source
Kathradafoundation.org/2021/07/24/looters-and-racists-cannot-set-the-agenda	https://www.kathradafoundation.org/2021/07/24/looters-and-racists-cannot-set-the-agenda/
Theft of State-owned firearms (Civilians blamed for guns in criminal hands)	https://www.pretoriafm.co.za/84-polisievuurwapens-binne-3-maande-in-gauteng-gesteel/?fbclid=IwAR2_FwbSxKAfTHzY6izGPtSPEWApR_wKQCLoAHCN2QoorUrsrmt27d5aLLY
Spike in Cash-in-transit heists (violent robberies, public regularly exposed to).	https://www.sabcnews.com/sabcnews/sa-records-another-spike-in-cash-in-transit-heists/
Mob justice (Violent society faced by law-abiding citizens)	https://www.iol.co.za/news/opinion/mob-justice-is-a-language-in-south-africa-e251a427-2eb5-4106-ad9b-028e6e29dc26
Firearms in custody of Police given to gangs. (Civilians blamed for guns in criminal hands)	https://www.iol.co.za/capeargus/news/how-can-police-root-out-illegal-guns-when-they-are-giving-those-guns-to-gangs-901d98db-a669-4744-b305-d2d2b2793dcf
Comment on amendment Bill (Minister will have VIP protection while citizens have no defence)	https://www.news24.com/news24/columnists/guestcolumn/opinion-terence-corrigan-amendments-to-firearm-act-no-price-for-being-wrong-20210529
Security industry will be negatively affected by the new bill	https://www.iol.co.za/weekend-argus/news/crime-fighters-say-they-will-be-disarmed-if-bill-is-passed-2b614d35-e647-4ae1-975f-0f7a1ea86f6c
Minister Cele 'War is being waged against the police' (What about the man in the street who would be disarmed for the purposes of self-defence?)	https://www.iol.co.za/mercury/news/war-is-being-waged-against-the-police-3b05c45c-5a38-4a51-a80a-2b380cd4ab51
Successful self-defence by a person who would be disallowed a firearm to save his life	https://www.iol.co.za/saturday-star/news/if-i-was-unarmed-i-would-have-been-another-victim-of-a-senseless-violent-crime-hijacking-survivor-eb858b47-446f-475c-ba0b-09d63c6b6a6b
5 citizen interviews, 1 in favour of disarming	https://southerncourier.co.za/226413/access-to-firearms/
Leadership crisis in SAPS a threat to democracy (inability to perform leaves public without protection)	https://www.iol.co.za/news/opinion/saps-crisis-a-threat-to-democracy-efaa8181-2366-4aff-be2d-63da0760cdc8
Farm murders (New Act would leave farmers unarmed to face this threat)	https://citizen.co.za/news/south-africa/crime/2508368/three-suspects-arrested-for-another-double-farm-murder/

Title / Subject	Web link or source
SAPS leadership crisis	https://www.iol.co.za/news/politics/firing-jeremy-vearey-shows-leadership-crisis-in-saps-da-2ed2986c-2ac9-4d46-8fe6-24ad3c4b5177
Community exposed to violent crime	https://ewn.co.za/2021/05/31/khayelitsha-s-crime-tragedy-too-many-victims-and-not-enough-policing
Police Commissioner admits discipline in SAPS needs overhaul	https://www.groundup.news/article/police-commissioner-khehla-sitole-admits-saps-discipline-needs-overhaul/
Using GBV to motivate for disarming civilians	https://www.iol.co.za/capeargus/opinion/letter-police-minister-bheki-cele-aligning-gun-ownership-with-gbv-is-absurd-724a3cd7-8500-4958-9667-5c9ea0003ab5
Families of victims shot with cop-smuggled firearms take aim at police	https://www.dailymaverick.co.za/article/2021-06-03-class-action-pending-families-of-those-shot-with-cop-smuggled-firearms-to-take-on-police/
Guns to gangs	https://www.iol.co.za/capeargus/news/how-can-police-root-out-illegal-guns-when-they-are-giving-those-guns-to-gangs-901d98db-a669-4744-b305-d2d2b2793dcf
Police discipline lacking – public suffers	https://www.dailymaverick.co.za/article/2021-06-02-police-data-shows-a-disciplinary-system-in-a-state-of-collapse-as-conflict-rages-in-its-saps-upper-echelons/
Alarming levels of crime in Durban	https://www.iol.co.za/news/south-africa/kwazulu-natal/ethekwin-rolls-out-5-pillar-plan-to-fight-alarming-levels-of-crime-in-durban-cbd-603bd14f-ee94-45fb-b9d8-21982930b7a2
Taxi murders – with the public exposed daily	https://www.thesouthafrican.com/news/taxi-murder-latest-cele-unveils-plan-to-solve-kzn-cases/
Hi-jackers using police regalia - regularly	https://www.thesouthafrican.com/news/shootout-ekhurleni-delmas-r50-motorist-kills-hijackers-dressed-police-uniform-12-june-2021/
Taxi violence – a reality for the public	https://www.news24.com/news24/southafrica/news/kzn-taxi-violence-bloodshed-must-be-stopped-with-immediate-effect-says-cele-20210612
Tender-murders in KZN – public violence	https://www.news24.com/citypress/News/no-end-in-sight-to-kzn-tender-murders-20210612
SAPS system failing the public in the delivery of justice	https://ewn.co.za/2021/06/10/police-minister-cele-details-steps-to-help-clear-dna-backlog-at-forensic-labs

Title / Subject	Web link or source
Cele to host crime imbizo	https://www.politicalanalysis.co.za/cele-to-host-crime-prevention-imbizo-in-kzn/
Elderly women raped and murdered (no justification for a gun for self-defence?)	https://www.thesouthafrican.com/news/elderly-women-raped-and-killed-eastern-cape-75-91-saps-police-8-june-2021/
Slain Khayelitsha teen	https://www.news24.com/news24/southafrica/news/w-cape-community-safety-mec-visits-family-of-slain-khayelitsha-teen-20210610
Police officers claim they are overworked and underpaid	https://www.thesouthafrican.com/news/overworked-and-underpaid-heres-what-police-union-asks-from-bheki-cele-popcr-public-servants-salary-increase/
Police officers involved in heist and arrested	https://briefly.co.za/102052-cops-robbers-police-may-have-pay-r100m-back-after-cit-heist.html
Killings of police officers on the rise (yet public should be disarmed?)	https://www.iol.co.za/the-star/opinion-analysis/find-police-killers-and-put-them-behind-bars-a4ab8bd0-52d9-42bb-927f-7e3e2324230f
Gun law changes would make things worse for women - IRR	https://www.biznews.com/thought-leaders/2021/06/09/firearms-ban-self-defence
Give us the SAPS we deserve! <i>Michael Weeder-Dean of St George's Cathedral, Cape Town</i>	https://www.dailymaverick.co.za/article/2021-06-09-to-the-government-president-cyril-rampahosa-and-parliament-give-us-an-saps-we-deserve/
Activists slam gun law – increased vulnerability of women	https://www.iol.co.za/capeargus/news/activists-slam-proposed-gun-law-amendment-women-would-be-at-greater-risk-of-gbv-4bd11269-664a-414c-bef8-c9faad2383b8
Private security rapid growth in the face of SAPS inability. Security guards would also be more vulnerable if Minister gets his wishes.	https://www.africanews.com/2021/06/08/south-africa-insecurity-sees-rapid-growth-of-private-security-sector/
Public and EMS at risk in taxi violence – SAPS can only respond after the fact	https://www.thesouthafrican.com/news/ceres-taxi-rank-shooting-ems-shot-at-five-dead-three-suspects-on-the-run-8-june-2021/
CIT heist leads to arrests – public exposed to fully automatic (military and police firearms) gunfire	https://www.news24.com/news24/southafrica/news/10-bust-for-cash-in-transit-heist-in-pretoria-stained-cash-12-firearms-and-ammunition-seized-20210608
Police officer IPV also contributes to gender violence statistics	https://www.sanews.gov.za/south-africa/former-constable-nabbed-allegedly-murdering-his-girlfriend

Title / Subject	Web link or source
No reason to have a gun for self defence?	https://www.news24.com/witness/News/Pietermaritzburg/staffer-at-kzn-premiers-office-brutally-killed-20210608
Hi-jacking – another daily experience for law-abiding citizens	https://citizen.co.za/news/2523072/drive-mommy-drive-boy-tells-mom-as-they-fend-off-hijackers/
“I would rather have a firearm and not need it than not have the firearm and need it.”	https://ewn.co.za/2021/06/07/petitions-against-amending-firearms-act-gain-momentum
The government and SAPS should be making it easier for South Africans to feel safe, not more difficult.	https://www.politicsweb.co.za/politics/gun-bill-govt-must-tear-up-the-draconian-gun-bill-
Disarm gangsters – not law-abiding public	https://www.politicsweb.co.za/politics/minister-disarm-the-gangsters-not-lawabiding-citiz
Children and families at risk yet no reason to own a gun for self-defence?	https://citizen.co.za/news/south-africa/local-news/2514542/violence-against-children-a-critical-challenge/
Disarm law-abiding citizens while cops sell guns to gangs?	https://theworldnews.net/za-news/zille-cele-disarming-law-abiding-citizens-while-cops-sell-guns-to-gangsters
Police need guns but citizens not?	https://www.iol.co.za/saturday-star/opinion/poeticlicence-if-guns-are-a-problem-our-police-should-not-have-them-either-473e6ef3-f0a0-4fa9-9559-064d1c4a539b
Firearms Control latest: ‘Stop hiding behind the courts and scrap the Bill’	https://www.thesouthafrican.com/news/firearms-control-amendment-bill-latest-gun-license-application-self-defence-ramaphosa-sunday-6-june/
More than 10 000 rapes reported – how many could have been stopped by a gun?	https://www.capetownetc.com/news/saps-consults-with-gbv-activists-after-nearly-10-000-rapes-were-reported/
ACDP opposed to gun bill	https://www.politicalanalysis.co.za/meshoe-remains-opposed-to-firearms-control-amendment-bill/
Community at risk in Khayelitsha – but no guns for self-defence?	https://www.capetalk.co.za/articles/416536/13-people-murdered-in-khayelitsha-on-weekend-saps-in-pursuit-of-known-suspects
Blikkiesdorp a ‘hellhole’ to live in. Criminals – not law-abiding gun owners are the problem	https://www.iol.co.za/weekend-argus/news/look-blikkiesdorp-residents-describe-the-hellhole-they-live-in-be4b9fa0-9aaf-4ade-86d4-57575c3572c0

Out of date SAPS tactics don't help the community and neither does disarming law-abiding citizens	https://www.timeslive.co.za/sunday-times/opinion-and-analysis/2021-07-25-out-of-date-saps-tactics-may-have-played-a-part-in-lootings-spread/
Citizens at risk	https://www.timeslive.co.za/sunday-times/opinion-and-analysis/2021-07-25-good-cop-bad-cop-how-do-we-tell-them-apart/
Gun bill should be rejected – even by those who hate guns	https://dailyfriend.co.za/2021/07/23/why-the-fca-amendment-must-be-rejected-even-by-those-who-hate-guns/
Ammo stolen in Durban – was SAPS negligent?	https://mg.co.za/news/2021-07-23-stolen-ammo-poses-security-threat-amid-failure-to-protect-high-risk-consignments/
Portfolio Committee on police want to hold the executive accountable	https://www.news24.com/news24/southafrica/news/parliaments-police-committee-says-it-will-hold-executive-accountable-for-recent-unrest-20210722
Citizens pay with their lives while the state fails	https://ewn.co.za/2021/07/21/sa-s-security-threatened-as-anc-factional-battles-play-out-in-security-cluster
Criminals on the loose – no guns for citizens under Cele's new bill?	https://www.iol.co.za/news/south-africa/limpopo/pics-very-dangerous-prisoners-escape-from-custody-in-limpopo-with-a-saps-firearm-cc1e0894-6300-46d9-8ac7-745e5b71c036
R11.8B budget cut has decimated the police – yet Cele announces more budget cuts except for VIP protection	https://allafrica.com/stories/202107220657.html
Is it time for a re-think on a draconian bill?	https://www.timeslive.co.za/news/south-africa/2021-07-21-firearms-control-amendment-bill-is-as-dead-as-the-proverbial-dodo-says-panel/
Criminals with guns – what about self-defence for private citizens?	https://www.news24.com/news24/southafrica/investigations/blood-brothers-gangs-guns-and-grenades-inside-a-tobacco-industry-death-squad-20210721
Fingers pointing in the security cluster, but it was lawfully armed civilians that saved the day in KZN	https://www.enca.com/news/violence-sa-contradictions-security-cluster-continue
A security crisis while civilians step up and do the police's work	https://www.dailymaverick.co.za/article/2021-07-21-south-africas-security-sector-is-in-crisis-immediate-reform-is-needed-to-ensure-national-stability/
Taxi violence continues – police helpless – commuters and law-abiding citizens at risk	https://www.thesouthafrican.com/news/taxi-war-violence-latest-cape-town-bus-driver-shot-mbalula-santaco/
Policer stations targeted as a source of firearms	https://mg.co.za/news/2021-07-19-police-on-alert-over-intelligence-about-mooted-raids-on-firearms-and-ammunitions/

Title / Subject	Web link or source
Criminals will find a gun – even if they have to make it from scratch	https://www.iol.co.za/weekend-argus/news/homemade-guns-put-together-by-criminals-found-on-cape-town-streets-9a840c26-df05-4788-bc9e-528b8a4ee7e3
Crime expected to spiral	https://www.dailymaverick.co.za/article/2021-06-14-without-a-clear-reduction-strategy-violent-crime-is-expected-to-spiral-across-south-africa/
No guns for self-defence? Get rid of yours first Minister Cele	https://www.businesslive.co.za/bd/opinion/2021-07-15-helmoed-rmer-heitman-mr-cele-get-rid-of-your-guards-if-you-want-us-to-ditch-our-guns/
50% of flying Squad vehicles out of service and one helicopter out of 7 in the air.	https://citizen.co.za/news/south-africa/2580952/gauteng-police-shortage-flying-squad-vehicles/