



Dialogue on the Firearms Control Amendment Bill and White Papers on Police and Safety & Security

Report

African Policing Civilian Oversight Forum & Gun Free South Africa

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1. INTRODUCTION

On 21 July 2015, African Policing Civilian Oversight Forum (APCOF) and Gun Free South Africa (GFSA) co-hosted a dialogue on the Firearms Control Amendment Bill and the White Paper(s) on Police and Safety & Security with several civil society organisations including the gender-based violence sector and community-based organisations from the Cape Town area. The purpose of the dialogue was to engage stakeholders in the substance of the proposed amendments and the White Paper(s) to identify points of convergence and commonalities, identify gaps or other issues, and brainstorm ways to strengthen provisions around crime and violence prevention. The following organisations were represented at the workshop: Gun Free South Africa, APCOF, Goedgedacht Forum, Safety & Violence Initiative, Social Justice Coalition, Ndifuna Ukwazi, Women's Legal Centre, Trauma Centre for Survivors of Violence and Trauma, SACBC Parliamentary Liaison Office, Sonke Gender Justice, RAPCAN, and Sex Workers Education and Advocacy Taskforce (SWEAT).

Alan Storey provided an overview of the programme agenda for the dialogue, which included a high level overview of the White Paper on Safety & Security and White Paper on the Police by APCOF, an analysis of the Firearms Control Amendment Bill by Gun Free South Africa, followed by a discussion on how these processes can be used to reduce gun violence and enhance crime and violence prevention efforts. In addition, Adèle Kirsten mentioned that various opportunities for engagement with the proposed amendment bill and policy papers would arise over the next 6-12 months and that it will be important for civil society organisations to work together to ensure these processes reflect the vision for a safe and secure South Africa.

2. PRESENTATIONS

2.1 Draft White Paper on the Police

The first presentation was conducted by Melanie Dugmore from APCOF, who provided an overview of the Draft White Paper on the Police, which will be discussed by the

Portfolio Committee on Police to Parliament on 5 August and incorporation of the public submissions. Melanie explained the significance of this policy, specifically the role of policy in informing legislative process going forward (impacting upon the Firearms Control Amendment Bill and the South African Police Services Amendment Bill), and emphasized the importance of developing a robust policy, which clearly articulates what legislation should look like, what the indicators for performance should be, and provides a clear M&E framework.

The Draft White Paper, as it currently stands, contains major gaps and omissions, which includes:

- Lacks a clear problem statement, which makes it difficult to identify the key issues for reform and compromises the quality of the solutions presented;
- Lacks mention of the role of the National Police Board, which is a key mechanism for reform proposed by the National Development Plan;
- Contains insufficient detail on the role of oversight and accountability mechanisms, including both internal and external, as well as the role of communities;
- Presents no clear vision of the type of society we want, which may frustrate efforts in reducing crime and violence;
- Does not engage with the issue of police resource allocation;
- Lacks an explanation of internal mechanisms for control (specifically reforms for police management);
- Fails to engage with the current inefficiencies in police disciplinary systems and the challenges in responding to issues in policing; and
- Lacks a clear statement of how the White Paper on the Police will intersect/complement the White Paper on Safety and Security;
- Lacks detail on community participation and clarification of the role of community policing forums and community safety forums.

The proposed recommendations for strengthening the White Paper on the Police include the following:

- Integrate human rights principles, specifically in relation to use of force and the use and management of firearms;
- Review the training curriculum of SAPS personnel, specifically gender and policing, use of force, firearm management and use, community centred policing;
- Develop and include systems-wide indicators on police performance to facilitate effective monitoring; and
- Review the roles, responsibilities and capacities of oversight mechanisms.

2.2 Draft White Paper on Safety & Security

The second presentation was conducted by Lorenzo Wakefield from APCOF, who provided an overview of the Draft White Paper on Safety & Security, which is set to go through the provincial consultation and community workshop process in August 2015. Before getting into the substance of the presentation, Lorenzo asked participants to think about whether there are intersections that exist between the White Paper on Safety & Security, White Paper on the Police and the Firearms Amendment Control Bill, and if so, whether these intersections provide a sufficient framework to adequately address crime and violence in South Africa?

The White Paper on Safety & Security aims to move away from a police-centric response to crime and violence and take a holistic, developmental and inter-sectoral approach to crime and violence prevention by looking at risk factors that exist at the individual, family, community and societal level. In this regard, the White Paper on Safety & Security encourages an integrated approach by government and promotes the notion that responsibility for safety and security lies with the community as a whole. The vision presented by the White Paper on Safety & Security is that everyone lives in a safe and secure society and that all people enjoy equal access to safety and security services. Accordingly, the objective of the White Paper is to provide an overarching policy in order to clarify the roles and responsibilities of various government departments in order to align them with the National Development Plan.

The approach to safety and security and crime and violence prevention rests on six key themes, which are presented towards the end of the White Paper. These include:

- Effective criminal justice system
- Early interventions to promote safety and security and to prevent crime and violence
- Support services to victims
- Integrated, effective and high-quality service delivery
- Safety and security through environmental design
- Public and community participation in crime and violence prevention

It is worth noting that although there are clear commonalities in the conceptualisation of both White Papers and the Firearms Control Amendment Bill, there are no expressed linkages between these three policy processes. For example, the Preamble of the Amendment Bill says nothing about ‘gun violence’, ‘safety and security’ or ‘crime and violence prevention’. Further, the Bill is very technical, the intended consequence being to increase safety and security throughout the Republic, which is additionally supported by the amendments to minimum sentences that seek to deter the use of firearms in the

commission of crime.

3. Analysis of the Firearms Control Amendment Bill (2015)

The third presentation was conducted by Adèle Kirsten from Gun Free South Africa, who provided an analysis of the key amendments to the Firearms Control Amendment Bill, which appears to have gained increased attention by the Minister due to concerns over the prominence of the gun lobby in driving the legislative process. At the start of her presentation, Adèle provided a brief background to the Amendment Bill, which gained increasing momentum following the death of the Bafana Bafana goalkeeper and involves extensive technical amendments. The premise of Adèle's analysis is that strong gun laws reduce gun deaths and gun violence, an outcome demonstrated by the almost 50% reduction in gun violence from 1998 to 2009 following the enactment of the Firearms Control Act (FCA) in 2000. The next question to ask, however, is whether strong gun laws reduce instances of other crimes and violence. Australia has demonstrated that yes, it does, (following the outright ban of civilian hand gun possession), specifically regarding a decrease in the number of assaults and robberies.

Three key themes emerge in the Amendment Bill, which can be categorised as follows: (1) provisions which strengthen gun control; (2) provisions which weaken gun control; and (3) remaining gaps and omissions.

The amendments that **strengthen gun control** involve the following:

- addressing the misuse of guns by SAPS, (including ballistic sampling, post-manufacture marking and Designated Firearms Officials);
- placing the burden of proof with gun owners to demonstrate they are 'fit and proper' to possess gun licenses;
- improving marking and tracking systems in order to identify when a gun moves from the legal to the illegal market;
- imposing a minimum 5-year sentence when the presence of a weapon is used in the commission of the crime; and
- strengthening the composition of the Appeals Board to include membership by people affected by gun violence.

Amendments that **weaken gun control** include the following:

- increasing the number of guns an individual can own (current max of 4, there is a push to increase limit to 5 to accommodate the cap-and-ball firearm owners);
- increasing the number of exemptions to the minimum age requirement for gun

- ownership;
- increasing the number of years a competency certificate is valid across all categories (the global norm for the validity period is 2-3 years); and
- increasing the number of categories of persons who are eligible to own more than 200 rounds of ammunition.

In terms of gaps and omissions, Adèle identified the following as potential opportunities for intervention:

- Strengthening provisions relating to the diversion of weapons from the legal to the illegal market (both White Papers are silent on this issue as is the Amendment Bill);
- Declaring schools as Gun Free Zones (as per Section 140 of the FCA)
- Conducting a national Firearms Amnesty
- Increasing the minimum age requirement for gun ownership from 21 to 25 years age, (given the developmental significance of this time period)
- Increasing the number of grounds which render people ineligible for gun ownership, (substance abuse dependency, history of intimate partner/family violence, etc.)

Adèle ended the presentation by emphasizing the importance of public participation in the development of the Firearms Control Amendment Bill, in order to ensure that gun legislation is used to control guns, not to grant gun licenses.

3. DISCUSSION

At the conclusion of the presentations, Alan Storey chaired a discussion on identifying opportunities for strategic intervention for strengthening gun legislation and supporting the reduction of gun violence. Some of the key topics, concerns and issues include the following:

- **Building a strong counter-narrative to the gun lobby's position on gun control.**
 - The gun lobby must not set the agenda for the Amendment Bill. Civil society needs to build strong alliances with one another to identify diversions in the gun lobby's position and be strategic in the way we position our agenda.

- The gun lobby uses rights-based language and principles surrounding administrative justice to make their arguments sound rationale. The counter-narrative offered by civil society should be grounded in the lived experiences of people affected by guns and gun violence.
 - Civil society needs to identify diversions in the gun lobby's position on the movement of guns from the legal to the illegal market and position ourselves accordingly.
- **Ensuring increased participation from communities affected by gun violence.**
- There is a lack of victim/survivor representation in this dialogue. The experiences of survivors and those affected by gun violence needs to inform our position on gun violence and that those peoples' voices are reflected in our submissions and engagements with government.
 - Neither of the White Papers pays sufficient attention to the different impact gun violence has on different communities. For example, gun violence in Manenberg is different from gun violence in Khayelitsha. Interventions cannot be targeted if we do not understand the problems in different communities. Accordingly, it is important for us to involve as many community organisations that we can to ensure that our interventions are responsive to the needs on the ground.
 - Increased attention needs to be paid to the use of children in the commission of crime and how violence forms an integral part of their socialisation and development, i.e. toy guns, video games, etc.
 - More attention needs to be given to race and class issues, specifically in relation to the holders of legal and illegal guns and the movement of guns from the legal to the illegal market.
 - There is a gap in both the White Papers and the Firearms Control Amendment Bill on the issue of handmade guns in communities. We need to ensure there are adequate legislative and policy provisions to deal with this problem.
- **Strengthening data collection efforts and record-keeping practices by SAPS**
- More attention needs to be given to the manner in which police collect and record information, and how they calculate statistics, specifically in relation to gun violence. We must build a strategy or plan of action that aims to capacitate SAPS in their data collection and information management practices.
 - It is important for us not to tell SAPS just to disaggregate data; we must tell them how to disaggregate data to ensure the type of information we need is collected.

- Addressing the complexities of gender in gun violence and crime

- Ensure that gender is central to our position and ensure additional provisions are made to enhance the protection of women in the home. We should advocate that persons employed in the security sector (police, private security companies, etc.) are not allowed to take their weapons home.
- Identify points of convergence between the FCA and the DVA, specifically the provisions relating to applications for protection orders. A more robust process is required and questions relating to the presence of firearms in the home should be a part of every step of the protection order process. The Firearms Control Amendment Bill also provides a good opportunity to strengthen these provisions.
- Increased attention needs to be given to the vulnerability of young men, both as victims and as perpetrators of gun violence. Various challenges exist when it comes to bringing men into the discussion, but we cannot dismiss this issue or treat them as a homogenous group.

- Debunking myths relating to gun violence and crime.

- A central feature of our strategy should be the debunking of myths relating to guns and gun violence. For example, the illegal guns that are in the hands of young men were once in the legal market. We need to unpack the common and problematic myths relating to legal v. illegal weapons and focus our strategy on controlling the flow of guns from the legal to the illegal market.

- Increasing attention on the role of private security

- Little attention is given to the role of private security in both White Papers and in the Firearms Control Amendment Bill, specifically the lack of accountability and oversight provided by Private Security Industry Regulation Agency (PSIRA).

- Identifying points of convergence and gaps in different pieces of legislation

- An analysis needs to be conducted on how the DVA and the FCA link and complement one another.
- We need to keep in mind the linkages with the FCA and understand

exactly what the Firearms Control Amendment Bill covers. The key messages are increasing the efficiency of the Central Firearms Registry, controlling the illegal stocks of guns and the disaggregation of data.

- Building a strategy for engaging with government.

- We need to strategise around ways to capacitate SAPS. If the Amendments Bill is too administratively burdensome, the likelihood of it being implemented is minimal.
- Parliament engages with the communities they believe are most vocal so we must use some good old-fashioned advocacy work. We also need to make sure we engage with all political parties.
- We can't wait for Parliament to go to communities; we need to take communities to Parliament and capacitate those communities to engage with Parliament in a meaningful way and lobby with them strategically.

- Building a stronger partnership between civil society organisations.

- Establish a central group or forum for keeping each other informed of important developments and updates to ensure everyone stays engaged in the debate. It will be an important organising mechanism and a way to build support.
- Develop a clear policy position on gun violence that situates the debate within the broader discussion on crime and violence prevention and intervention. The policy position needs to reflect the type of society we want and this collective vision needs to drive our strategy going forward and be a continuation of the recommendations emanating from the Khayelitsha Commission of Inquiry.
- Together, we can make submissions, endorse letters and press releases, and provide support to each other to mobilize communities. In addition, we can conduct outreach in communities and inform them of processes that are taking place so we can capacitate them to participate in a meaningful way.

- Charter for Reducing Gun Violence

A central objective of the dialogue was the development of a Charter for Reducing Gun Violence, which is a strategy containing a set of key messages. Some of these messages include the following:

- Create safe spaces (Declare schools Gun Free Zones > start small and

unpack further)

- Keep guns out of the home (remove guns from home, police and private security personnel should keep guns in storage at place of employment)
- Prohibit the use of certain types of guns (specifically R5s in crowd control)
- Limit the number of guns a person can own (reduce sport shooters from 4 to 2)
- Identify young men as a vulnerable group, both as victims and as perpetrators
- Impose a high tax on gun sales and create a health fund to treat victims of gun violence

4. CLOSURE

At the end of the dialogue, participants made a collective commitment to engage in way forward, which included: (a) engaging in a advocacy campaign around domestic violence and gun violence for Women's Month, specifically the development of a concept not on convergences and divergences between the DVA and FCA; (b) circulating MP briefings to keep everyone informed of events and opportunities for engagement at Parliament; and (c) invite everyone to participate in the gender and policing workshop in Cape Town.