



# African Policing Civilian Oversight Forum

## Submission on the draft Firearms Control Amendment Bill, 2021

29 June 2021

### 1. Introduction

The [African Policing Civilian Oversight Forum](#) (APCOF) welcomes this opportunity to provide written comment to the Civilian Secretariat for Police Service (CSP) on the draft Firearms Control Amendment Bill, 2021 (hereafter, 'Amendment Bill'). We commend the CSP for inviting public comment on this important Amendment Bill, which we consider an important instrument to reduce gun violence. In particular, APCOF welcomes those aspects of the Amendment Bill that limit the availability of guns and ammunition, reduce the risk of guns in violence against women and reduce the risk of legal guns being stolen and leaking into the illegal gun pool.

Our submission is divided into four parts: our experience relative to the Amendment Bill, our overall comment of support from the Amendment Bill, features of the Amendment Bill that should remain, and features that should be amended to promote gun regulation in South Africa that accords with international and regional law and best practice in terms of violence prevention and community safety.

### 2. APCOF's expertise relative to the Amendment Bill

APCOF has [extensive experience](#) in South Africa, and the region, promoting mechanisms and systems for community safety, as well as work that supports normative standard setting and implementation for crime and violence prevention. From this experience, we recognise the vital

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importance of strong legislative frameworks to support community safety and violence prevention. With guns having overtaken knives as the weapon most used in murders, and more people in Gauteng dying from gunshot wounds than traffic accidents (South African Police Service national annual crime statistics, [2019](#) and [2020](#)), reducing the use (and therefore access) to guns should be a violence prevention and safety priority. In our view, the Amendment Bill is a positive development towards achieving this, providing that the necessary financial and technical support is provided to the entities and departments with responsibility for implementation, and its oversight, once the Bill is passed by the National Assembly.

APCOF also recognises the expertise and experience of [Gun Free South Africa](#) in benchmarking this Amendment Bill against both South Africa's obligations and international and regional agreements, as well as recognised international good practice on gun regulation. Accordingly, our submission draws substantially from their review of the Amendment Bill.

### **3. Overall comment of support for the Amendment Bill**

APCOF welcomes the Amendment Bill and its effort to align South Africa's national regulatory framework on gun use and ownership with international firearms-related protocols and agreements, global norms, in particular, that most countries do not recognise self-defence as a reason for gun ownership. In particular, we welcome the alignment of the regulatory framework with legal developments including the [2018 Constitutional Court](#) ruling that gun ownership is a privilege regulated by the Firearms Control Act, not a right, and that a valid reason is required to justify gun ownership.

We agree with the proposed amendments to limit gun use and users, including the limitation of use for self-defence, private collections, and public carriage. This is consistent with international and local scientific evidence that access to guns reduces gun violence. In South Africa, [research](#) has linked lives saved, including the lives of [women](#) and [children](#), to stricter gun control. Globally, [research](#) shows that a gun in the home most [endangers](#) household members by increasing the risk of murder, suicide, and death or injury from an unintentional shooting.

We further welcome the amendments that seek to reduce the risk of guns in violence against women through strengthening disqualification, suspension and prohibition elements in the issuing of competency certificates, licences and permits. APCOF is also supportive of amendments aimed

at mitigating the risk of illegal gun ownership by reducing and standardizing time of firearm licence validity, making associations responsible for members, and reducing the risk of guns leaking from legal to illegal pools through provision for ballistic sampling, reporting loss and theft, disposal of guns, and strengthening provisions on firearms owned by private security companies. From a police accountability perspective, we welcome, in particular, clause 64 which requires that Designated Firearms Police Officers are security vetted and subject to random integrity testing.

Enforcement of the Amendment Bill relies on implementation by the state, and compliance by gun owners, which requires that both parties understand their roles and responsibilities. Accordingly, we are encouraged by the Amendment Bill's facilitation of law enforcement through clarification on competency certificates, licence renewals, and the role and responsibilities of the state and firearm-related businesses.

#### **4. Features of the Amendment Bill that should remain**

APCOF strongly supports the following clauses of the Amendment Bill, with a number of proposed further amendments to strengthen their application provided in *italics*:

##### **4.1. Limits on ammunition and use**

Clause 54, which reduces ownership of ammunition from 200 to 100 bullets, and clauses 36 and 55 which prohibit gun owners from reloading their own ammunition at home.

##### **4.2. Reducing the risk of guns in domestic violence**

We support the following elements of clause 10:

- Permanently disqualifying a person declared unfit to own a firearm from being able to apply for a competency certificate.
- Police may temporarily suspend the processing of a competency certificate application if the applicant is issued with an interim protection under the Domestic Violence Act or the Protection from Harassment Act, with the suspension remaining in place until the interim protection order is confirmed or withdrawn. *However, we submit that the word **may** be*

*amended to read **must** so that police have no discretion and are required, in all instances, to suspend the application process.*

- No competency certificate to be issued to a person who has been convicted of an offence involving an 'element of violence' or sentenced to imprisonment without the option of a fine.

We also support clause 60, wherein the police may temporarily suspend a licence if the licence holder is charged with any offence that involves an 'element of violence' or has been served with an interim protection order under the Domestic Violence Act or the Protection from Harassment Act. A person served with a notice of suspension must surrender all firearms to the nearest police station for safekeeping until the case has been finalised. *However, we submit that the word **may** be amended to read **must** so that police have no discretion and are required, in all instances, to serve the notice of suspension.*

Finally, we support clause 62 which permanently disqualifies someone who has been declared unfit to own a firearm from being able to apply for a competency certificate, licence or permit.

#### **4.3. Reduce the risk of legal guns being stolen and leaking into the illegal pool**

We support clauses 25 and 58 which strengthens ballistic sampling (fingerprinting) of firearms by requiring every privately owned and state owned firearm to be ballistically sampled, including when licences are renewed or firearms sold.

Further, we welcome the improvements to control over firearms owned by private security companies in clause 21, which strengthens the working relationship between the Central Firearms Registry and the Private Security Industry Regulatory Authority by providing for the establishment of a Consultative Forum.

Finally, we welcome clause 64 which ensures the trustworthiness of Designated Firearms Police Officers (DFOs) through security vetting and random integrity testing.

## **5. Features of the Amendment Bill that should be strengthened**

APCOF urges the CSP to consider strengthening the following clauses of the Amendment Bill:

### **5.1. Increase the age limit for gun ownership and use to 25 years**

Clauses 7 and 10 allow for a person between the age of 18 and 21 to be issued with a firearm competency certificate, licence, permit or authorisation if there are compelling reasons. Clause 23 allows a person who is 21 years of age and the holder of a valid firearms licence for at least three years let a person aged 16 years and older to use that firearm while under their supervision.

However, APCOF strongly recommends that the age limit for gun ownership be increased to 25 years to protect young people from gun violence. [Evidence](#) from elsewhere suggests that raising the age at which individuals can use and own a firearm can curb gun violence.

### **5.2. Firearm free zones**

Section 140 of the Firearms Control Act allows for the Minister to declare certain premises as Firearm Free Zones. Once declared, it is a criminal offence to allow, carry or store a firearm in that space. APCOF calls on the Minister to declare all schools as Firearm Free Zones under section 140 to create safe spaces for learning.

## **6. Conclusion**

The efforts by the CSP to create a regulatory framework to end what is described by experts as an epidemic in gun violence across South Africa is a welcome step in its broader efforts to promote implementation of the White Paper on Safety and Security. It also provides South Africa with an opportunity to align its national regulatory framework with its international and regional commitments, both at global and SADC region, and to promote more effective governance over legal firearm ownership and management. APCOF supports the Amendment Bill, with minor comments are reflected in this submission.