

## **FIREARMS CONTROL BRIEFING**

### **FIREARMS AMNESTIES: TEN FACTORS FOR SUCCESS**

#### **INTRODUCTION<sup>1</sup>**

On 1 March 2017, the Minister of Police briefed Cabinet of his intention to declare a six-month national firearms amnesty under the Firearms Control Act (FCA). His announcement follows a groundswell of calls for action (including appeals for an amnesty) to stop rising levels of gun violence in South Africa, dating from October 2014 when Senzo Meyiwa, the national football team captain, was shot and killed. Within this context, this Briefing identifies ten factors that contribute to the success of firearms amnesties and explains why they are important to ensure that the 2017 amnesty has the best chance at contributing to safety in communities by successfully removing guns.

#### **CABINET ANNOUNCEMENT**

A memo of the 1 March Cabinet meeting notes that:

*“Cabinet was briefed on the Minister of Police’s intention to declare an amnesty in terms of the Firearms Control Act, 2000 (Act No 60 of 2000), for a period of six months to maximise the participation of the community, and will commence on 1 April 2017 and end on 30 September 2017.*

*The amnesty will reduce the circulation of illegally possessed firearms which will in turn result in the reduction of contact crimes.*

*The amnesty will focus on the following holders of firearms and/or ammunition in South Africa:*

- a) Persons in possession of illegal firearms and/or ammunition in circulation, including those involved in one or more criminal activities; and*
- b) Persons who inherited firearms and/ or ammunition and failed to comply with the provisions of the Firearms Controls Act.”<sup>2</sup>*

#### **FOUR KEY QUESTIONS**

The amnesty announcement raises four key questions:

1. Are amnesties an effective strategy to reduce illegal guns?
2. What’s needed to ensure a credible process?
3. Is there enough time to prepare? The amnesty is scheduled to begin on 1 April.
4. What has been found to be an ideal time period for an effective amnesty?

Each of these questions is answered below by drawing on lessons learned from South Africa’s own experience of holding amnesties (see Box 1) as well as the experience of other countries, for instance:

- Australia: 660,000 guns, including newly prohibited semiautomatic and pump-action rifles and shotguns were recovered from civilians in a year-long gun buy-back and voluntary hand-in campaign following the 1996 Tasmanian massacre and subsequent tightening of gun laws.<sup>3</sup>

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<sup>1</sup> This briefing draws on Kirsten, Adèle. 2007. Simpler, better, faster. Review of the 2005 Firearms Amnesty. *ISS Paper 134*. Pretoria: Institute for Security Studies.

<sup>2</sup> South African Government. 2017. *Statement on the Cabinet meeting of 1 March 2017*. Available online at <http://www.gov.za/speeches/statement-cabinet-meeting-1-march-2017-2-mar-2017-0000> (accessed 2 March 2017).

<sup>3</sup> Chapman, Simon. 2016. et al. Association Between Gun Law Reforms and Intentional Firearm Deaths in Australia, 1979-2013. *Journal of the American Medical Association*, Volume 316, Issue 3, pp. 291-299. Available online at doi:10.1001/jama.2016.8752.

- Brazil: 450,000 guns were recovered from civilians in 2004-2005 during a year-long National Voluntary Firearms Handover campaign, which was undertaken to address the high levels of gun-related crime in the country.<sup>4</sup>
- United Kingdom: 162,000 handguns were surrendered to police in England, Scotland, and Wales in two hand-in periods (July to September 1997 and in February 1998). In addition, 23,000 illegally held guns were handed in under an amnesty programme in June 1996. These gun collection efforts were introduced after the 1996 Dunblane massacre, which prompted sweeping reforms to UK firearms laws.<sup>5</sup>

### QUESTION 1: CAN AMNESTIES REDUCE ILLEGAL GUNS?

The primary objective of an amnesty is to remove illegal guns from circulation. In addition, they are also an effective mechanism to remove 'at risk' guns: Almost every illegal gun begins life as a legal weapon, in that it is legally manufactured and legally sold. In most countries, including South Africa, the majority of guns recovered in crime appear to have been legally owned in the past, either by civilians, the private security industry or by state officials. The diversion of guns from their previously legal owners, often through loss and theft, contributes significantly to the illegal pool of firearms.<sup>6</sup> Amnesties facilitate the collection of guns that are at particular risk of leaking from the legal to illegal pool by:

- Providing gun owners with an opportunity to hand in unwanted or unlicensed guns.
- Removing and destroying excess gun stocks, including stocks held by the police, military and private security companies.

However, to successfully remove illegal, unwanted and surplus weapons and ammunition, the conditions of an amnesty are key.

#### Factors for Success

1. *Amnesty conditions* – Experience internationally and in South Africa has shown that the conditions under which an amnesty is held plays a key role in its success. An amnesty in which no questions are asked, otherwise referred to as a **blanket amnesty**, has been shown to be the most effective at removing illegal, unwanted and excess weapons. In blanket amnesties, identifying information of the firearm or firearm part handed in is recorded; this information is used to remove the gun from the firearms register, and also see if it is linked to any crimes, but no identifying information of the person handing in the gun is recorded. It is the nullification of the risk of prosecution that encourages people to hand guns in, thereby facilitating their removal from communities.

<sup>4</sup> Stohl, Rachel and Tuttle, Doug. 2008. The Small Arms Trade in Latin America. *NACLA Report on the Americas*, Volume 41, Issue 2, pp. 14-20.

<sup>5</sup> Faltas, Sami. et al. 2001. Removing Small Arms from Society: A Review of Weapons Collection and Destruction Programmes. *Small Arms Survey Occasional Paper No. 2*. Geneva: Small Arms Survey.

<sup>6</sup> Centre for Humanitarian Dialogue. 2005. *Missing pieces: Directions for reducing gun violence through the UN Process on Small Arms Control*. Geneva: CHD, pp. 13-25; Firearms Control Briefing 3 of 2015: *Firearm Loss and Theft*. GFSA.

## QUESTION 2: WHAT'S NEEDED TO ENSURE A CREDIBLE PROCESS?

South Africa has held three amnesties since democracy – see Box 1 at the end of this Briefing, which summarises how the FCA defines amnesties and South Africa's history of amnesties. Amnesties help remove firearms from circulation: Since 1994, more than 130,000 weapons and 2.3 million rounds of ammunition have been removed from South African communities. However, given the increase in the types of serious crimes in which guns are most likely used, more needs to be done to remove firearms from communities. As an indication, recent crime statistics show that between April and December 2016, armed robbery was up by 6.1%; its subcategories – called “trio crimes” – include house robbery, which rose by 5.3%; business robbery, which was up by 6.5%; and hijackings, which increased by 14.9%. According to the Acting National Police Commissioner, “These crimes are...an indicator of the availability of illegal firearms, because when car hijackings are being committed, firearms are involved. When robberies are being committed, firearms are being used.”<sup>7</sup>

One of the stumbling blocks to getting thousands of guns off our streets and out of our homes is the decreasing level of public confidence in the police. Recent media reports have undermined the public's belief in the police's ability to manage amnesties and permanently remove guns from communities, as fraud and corruption by the police has seen weapons that were handed in for destruction leak from the police onto the streets.

The impact of this is best demonstrated by Christiaan Prinsloo, the former Gauteng police colonel who was sentenced to 18 years' imprisonment in 2016 for selling confiscated and surrendered guns, including guns handed in during amnesties, to Western Cape gangsters.<sup>8</sup> In another high-profile case, a police raid on the Norwood home of Emma and Mark Shmukler-Tishko in 2014 netted an arms cache that included R1, R4, R5, and AK-47 rifles and approximately 300 handguns. During their court appearance, prosecutor Talita Louw revealed that some of the firearms in the cache had been handed in to the police for destruction during the 2010 national firearms amnesty, but rather than being destroyed these guns were stolen and sold to criminals allegedly by corrupt police officials.<sup>9</sup>

By poor stockpile management, that is, not securing and managing weapons and ammunition that has been handed in during an amnesty, the police fail the public and South Africa as a whole. Consequently, it is critical that the South African Police Service (SAPS) institutes measures to ensure that all weapons and ammunition handed in or recovered during the 2017 amnesty will be secured and will not leak into the illegal pool once again through police fraud and corruption.

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<sup>7</sup> Mashego, Abram. 2017. Trio crime stats must fall. *City Press*, 5 March. Available online at <http://m.news24.com/news24/SouthAfrica/News/trio-crime-stats-must-fall-20170305-2> (accessed 6 March 2017).

<sup>8</sup> Mzants, Siyavuya. 2016. Former top cop jailed for illegal gun trade. *Cape Times*, 22 June. Available online at [www.iol.co.za/news/crime-courts/former-top-cop-jailed-for-illegal-gun-trade-2037112](http://www.iol.co.za/news/crime-courts/former-top-cop-jailed-for-illegal-gun-trade-2037112) (accessed 8 February 2017).

<sup>9</sup> Hosken, Graeme. 2014. Cops leaking guns. *The Times*, 4 April. Available online at [www.timeslive.co.za/thetimes/2014/06/04/Cops-leaking-guns](http://www.timeslive.co.za/thetimes/2014/06/04/Cops-leaking-guns) (accessed 5 March 2017).

### Factors for Success

2. *Location of hand-in points* – Neutral venues such as municipal recreation centres, religious venues or NGO buildings that are accessible and located within communities are favoured over police stations. This is because police stations are often regarded with suspicion and sometimes fear by residents; in addition, neutral venues will help counter strong public perception, backed by evidence, that weapons handed in during an amnesty are not secure in SAPS 13 stores.
3. *Disable the weapon at point of hand-in* – Rendering the weapon inoperative through smashing or crushing it or using an angle grinder to destroy key components in front of the person handing the weapon in would significantly increase trust that the gun will be destroyed; this was done both in the 1994 amnesty in South Africa (see Box 1 below) and in Brazil in 2004/05 to great effect.
4. *Civilian oversight* – Gun Free South Africa (GFSA) partnered with the Civilian Secretariat for Police during the 2010 national firearms amnesty (see Box 1). By serving as the official independent observer, with monitors working across five provinces, GFSA helped ensure civil society oversight and transparency. Monitors undertook unannounced oversight visits at over 200 police stations nationally, checking on each station's compliance with the amnesty process and verifying that the firearms recorded as handed in were in fact held in the police safe. Monitors also assisted with identifying any potential problems at police stations, reporting these to the national task team.
5. *Public destruction of surrendered guns* – Whatever the aims of a particular amnesty, the effective disposal of weapons recovered through voluntary surrender or through other means, is essential to ensure that recovered weapons are not lost through theft or corruption.<sup>10</sup>

### QUESTION 3: HOW MUCH LEAD-IN TIME IS NEEDED FOR A SUCCESSFUL AMNESTY?

According to the Cabinet memo, the 2017 amnesty is scheduled to start on 1 April; this leaves very little time to properly engage stakeholders, including police officials, partners and the public. In addition, for amnesties to be successful they need to be part of a comprehensive firearms control strategy; and to be conducted in conjunction with other activities such as police search and seizure operations as well as the implementation of changes to tighten gun control policy or practice. For example, a major factor underlying the success of weapons collection programmes in Australia, Brazil and the UK was very much linked to how they were combined with tighter weapons control.<sup>11</sup>

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<sup>10</sup> Faltas, Sami. et al. 2001. Removing Small Arms from Society: A Review of Weapons Collection and Destruction Programmes. *Small Arms Survey Occasional Paper No. 2*. Geneva: Small Arms Survey.

<sup>11</sup> Ibid.

## Factors for Success

6. *Timing of the amnesty* – holding an amnesty in conjunction with either the introduction of new gun laws or the strengthening of existing policy or practice yields the best results in netting the most number of weapons. Two upcoming opportunities to align an amnesty with changes in gun control policy and enforcement of the law in South Africa are:
  - *Amendments to the Firearms Control Act*  
To strengthen controls over the use and distribution of guns in South Africa, including mechanisms to reduce the risk of guns moving from the legal to the illegal pool, amendments to the FCA were scheduled to come before Parliament in 2016, this has been delayed to 2017.
  - *Setting aside the 2009 Interim Court Order*  
In 2009, Judge Bill Prinsloo granted a court order in the North Gauteng High Court to the SA Hunters and Game Conservation Association by which firearm licences obtained under the 1969 Arms and Ammunition Act remain valid pending the final outcome of the Association's application to have certain sections of the FCA declared unconstitutional. Seven years later the interim order (under which more than one million gun owners have not yet re-applied for licences under the FCA) has still not been set down for a hearing as the Minister of Police has not filed an answer.
7. *Internal organisational planning and capacity* – It is essential to have properly trained personnel and sufficient budget to process the paper work, oversee hand-in points, and secure surrendered weapons; internal communications on the purpose of the amnesty and the procedure for handing in a weapon is vital. Putting all these mechanisms in place requires sufficient lead-in time.
8. *Compensation and incentives* – International experience in countries as diverse as Australia, Haiti, Mozambique, Nicaragua and the United States highlight that reimbursing gun owners and/or incentivising gun hand-ins (through cash or vouchers for construction materials, motor vehicles, electronic equipment, food, or an experience, such as attending a sporting event) can be very effective in encouraging gun hand-ins by community members. The decision on whether incentives will be used, and if so what they will be and how they will be secured must be decided upon early in the planning of a weapons collection programme so that funds in cash or goods and services can be secured, either from treasury or from partners.<sup>12</sup>
9. *Communications and public awareness raising programmes* – There is strong evidence to suggest that people wait until the last minute before acting on the call to hand-in weapons and that extensive public education and awareness raising is needed to keep the issue in the foreground. Partnering with civil society organisations who can help communicate the amnesty message, including religious groupings and NGOs, can significantly improve the success of an amnesty. For instance, as an official partner to the 2010 firearms amnesty, GfSA led a successful mass awareness-raising campaign to promote the amnesty, enlisting the pro-bono assistance of advertising agency Young & Rubicam (Y&R) to develop creative ways to communicate the amnesty message. Following the South African Football Association's (SAFA) establishment of the Senzo Meyiwa Gun Control Committee and subsequent calls by SAFA for a national firearms amnesty, SAFA through the Committee would be a logical and powerful ally to partner with during the 2017 amnesty.<sup>13</sup>

<sup>12</sup> Meek, Sarah. 1998. Buy or barter: The history and prospects of voluntary weapons collection programmes. *ISS Monograph No 22*. Pretoria: Institute for Security Studies.

<sup>13</sup> South African Football Association. 2015. *100 Days since shooting of Senzo Meyiwa*. Facebook post, available online at [www.facebook.com/southafricanfootballassociation/posts/921473594543920:0](http://www.facebook.com/southafricanfootballassociation/posts/921473594543920:0) (accessed 5 March 2017).

#### QUESTION 4: WHAT HAS BEEN FOUND TO BE AN IDEAL TIME PERIOD FOR AN EFFECTIVE AMNESTY?

According to the Cabinet memo, the 2017 amnesty will last for six months, experience shows that the amnesty period should not be less than three months in duration.

##### Factors for Success

10. *Duration of the amnesty period* – The ideal time period of an amnesty is from six months to a year; the length of time is an important factor in creating a climate of trust between the police and the public, enabling an opportunity for dialogue, and allowing people to consider their options and decide how they will respond.

#### CONCLUSION

The months following Senzo Meyiwa's murder saw unprecedented calls from the public for government action to stop gun violence, including holding a national firearms amnesty to remove illegal firearms. This call was repeated at the March 2015 Firearms Summit, with consensus that a national firearms amnesty was an effective mechanism to address the issue. In the two and a half years since Meyiwa's death – in which time 15,000+ South Africans have been shot and killed, the majority of whom are young men like Meyiwa – no concrete action has been taken to reduce increasing levels of gun violence in South Africa.

We congratulate government on the announcement that a national firearms amnesty will be held. But, and as highlighted in this Briefing, unless a range of *Factors for Success* are considered and addressed, the 2017 national amnesty will not succeed in removing hundreds of thousands of guns from our society, thereby reducing serious crime in communities across South Africa.

### BOX 1: WHAT IS AN AMNESTY AND WHAT IS SA'S EXPERIENCE OF AMNESTIES?

#### Amnesties in the Firearms Control Act

South Africa's Firearms Control Act (FCA) of 2000 defines a firearm amnesty as "an indemnity against prosecution for the unlawful possession of a firearm or ammunition."<sup>14</sup> Although the term amnesty may imply anonymity and exemption from prosecution, this is not always the case, and in most amnesties held in South Africa, identifying information of the person handing in the weapon has been required.

The FCA gives the Minister of Police the power to declare an amnesty if the holding of an amnesty may result in the reduction of the number of illegally possessed firearms in South Africa; and it is in the public interest to do so.

Any declaration of an amnesty by the Minister needs to be approved by Parliament prior to notice being given in the Government Gazette. The law also allows the Minister to impose certain conditions during an amnesty such as the ballistic testing of any firearm handed in. Furthermore, the FCA requires that the Registrar must dispose of any firearm or ammunition surrendered under the amnesty.<sup>15</sup>

#### Amnesties in South Africa

Since 1994, there have been three firearms amnesties in South Africa:

**1994:** GFSA initiated the first firearms amnesty on 16<sup>th</sup> December; this was a 24-hour national firearms amnesty. Although this amnesty did not yield a significant number of weapons – just 900, it's most important impact was to put the issue of gun control on the national political agenda, creating the impetus for a comprehensive review of the firearms control regime in South Africa in 1997.<sup>16</sup>

**2005:** An initial three-month amnesty was declared from 1 January to 31 March, in support of the implementation of the new Firearms Control Act; and extended for a further three months to 30 June 2005. The 2005 amnesty recovered the largest number of weapons of any amnesty effort in South Africa: a total of 100,066 firearms and/or components (72,973 of which were handguns) were handed in (53,435 illegal guns and 46,631 guns were voluntarily surrendered). Furthermore nearly 2 million rounds of ammunition were handed in or confiscated. One of the most important impacts of the amnesty is that it raised public awareness about the new gun law, including provisions requiring regular firearm licence renewal and giving licence holders an opportunity to surrender their unwanted firearms.

**2010:** A three-month amnesty was declared from 1 January to 31 March as part of South Africa's preparation for the FIFA World Cup held in June, which yielded 32,169 firearms and 348,083 rounds of ammunition. GFSA partnered with the Civilian Secretariat of Police on this amnesty, acting as an independent monitor and leading a mass communication campaign.

<sup>14</sup> *Firearms Control Act*. 2000. Section 138.

<sup>15</sup> *Firearms Control Act*. 2000. Section 139 (5).

<sup>16</sup> Kirsten, Adèle. 2008. *A Nation without Guns? The story of Gun Free South Africa*. Scottsville: UKZN Press.