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21<sup>st</sup> October, 2009

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Good day

Gun Free South Africa would like to take this opportunity to thank the Parliament of South Africa for allowing us to put forward our views in regards to the Domestic Violence Act. We would be very happy to make a verbal presentation at the first opportunity.

Gun Free South Africa (GFSA) was formed in 1994 with the aim of helping to building a safe and secure South Africa, free from fear, by reducing the number of firearms in society. To achieve this goal, we are involved in a number of activities, including:

- Campaigning for strict gun control laws;
- Training people to use the Firearms Control Act and
- Promoting firearm-free and gun- free zones

It is our Mission to reduce the number of firearms in South Africa and to help build a safe and secure nation, free from fear. and our Vision is a South Africa where there will be no need for anyone to own or carry a firearm

Our concerns in regards to the Domestic Violence Act are as follows

We are attaching copies of two articles published in September as attached. In both cases the wives were granted protection orders against their husbands.

Case of Wim Koning. Nelspruit 13.9.09.

A protection order had been granted to his wife Reni Koning and Wim Koning shot his estranged wife, daughter (7) and son (9) as well as himself.

PATRONS: Ms SHEENA DUNCAN, CHIEF RABBI CYRIL HARRIS, ARCHBISHOP DENIS HURLEY, PASTOR RAY McCAULEY, SHEIK NAZEEM MOHAMED, Ms SHEILA SISULU, REV PETER STOREY, ARCHBISHOP DESMOND TUTU

See attached article.

Case of Ashwin Moodley. OR Tambo Garden Court Hotel. 16.9.2009.

A protection order had been granted to his wife Manju Moodley and Ashwin shot his daughter (2) and his son (3) as well as himself.

We would like to draw your attention to the section headed

#### CONSIDERATION OF APPLICATION AND ISSUING OF INTERIM PROTECTION ORDER.

"No. 5 (3)(a) An interim protection order must be served on the respondent in the prescribed manner and must call upon the respondent to show cause on the return date specified in the order why a protection order should not be issued.

(b) A copy of the application referred to in section 4 (1) and the record of any evidence noted in terms of subsection (1) must be served on the respondent together with the interim protection order.

(4) If the court does not issue an interim protection order in terms of subsection (2), the court must direct the clerk of the court to cause certified copies of the application concerned and any supporting affidavits to be served on the respondent in the prescribed manner, together with a prescribed notice calling on the respondent to show cause on the return date specified in the notice why a protection order should not be issued.

(5) The return dates referred to in subsections (3) (a) and (4) may not be less than 10 days after service has been effected upon the respondent.

Concern:

Our concern relates to the fact that the respondent is given some time (10 days) before s/he must respond and a final protection order is granted and after the initial application form has been completed.

If the respondent has a firearm and now knows that a Protection Order is being applied for the safety of the woman is compromised. This is totally unacceptable considering the continued risk for the woman. It does not prioritise the safety of domestic violence victims.

Even if the respondent does not own a firearm but has access to one through employment, the state needs to be aware. The respondent could be employed by the military, the police or with a security firm.

The current Application for a Protection Order (Form J 480/830610) contains two questions which have to be completed if the court is to order the removal of firearms: questions 5 and 8b.

#### - PART A, QUESTION 5: INFORMATION REGARDING ACTS OF DOMESTIC VIOLENCE

Question 5 asks the applicant to "Give full details regarding all incidents of domestic violence and also indicate whether dangerous weapons were used, what injuries have been sustained and whether medical treatment was obtained."

- PART A, QUESTION 8 ADDITIONAL CONDITIONS

Question 8b deals with "Additional conditions" and requests that "the Court must order that ... a member of the South African Police Service is to seize the following arm(s) or dangerous weapon (s) in possession of the respondent".

Recommendations:

- i. The current Application for a Protection Order Form J480/830610 should be amended to include the following questions : for example:
- o Have you ever been threatened with a firearm?
  - o Have you ever been threatened by the person, whether or not by means of a firearm?
  - o Have the person ever expressed the intention to kill himself/herself or any other person whether or not by means of a firearm?
  - o Does the person have a firearm?
  - o Does the person have access to a firearm, either through employment or through friends.
  - o Does the person have a license for the firearm? (Yes/No)
  - o Would you feel safer if the firearm was removed.
  - o

If any of the above is in the affirmative we believe the firearm should be confiscated immediately.

Although the Interim Protection Application Form does ask about firearms, it does not give any assurance that the firearm will be removed immediately. Our recommendation is that the applicant must be assured that the firearm can be confiscated immediately. The position would be helped if the Interim Protection Order Application form is reworded as suggested above with more direct questions relating to the possession and misuse of firearms.

We also suggest that in Section 8 the following should be inserted.

Additional conditions:(b) A member of the SAPS must seize any weapon until such time as the protection order is finalised whereupon the weapon should be permanently confiscated.

We feel in view of the above two cases where protection orders had been granted but seemingly firearms were not removed, there was a tragic outcome for both families.

Further to which we have been advised by SA Faith and Family Institute of a current case where a woman has had to wait for almost a month, 13<sup>th</sup> October, 2009 application and a court date only set for 10<sup>th</sup> November 2009. The woman was advised by a clerk that she has to show the police the number she obtained from the court and this was so that the police would take her call seriously if she reported any incident while she waited for her case to be heard. We feel that this is gambling with the lives of women and children and we feel these cases should be heard immediately.

In regards to the following section

**SEIZURE OF ARMS AND DANGEROUS WEAPONS**

We looked at the sections in the act that provides for the seizure of firearms and we found the following:

2.2 Section 9 (2) states that "any arm seized in terms of subsection (1) must be handed over to the holder of an office in the South African Police Service as contemplated in section 11 (2) (b)

of the Arms and Ammunition Act, 1969<sup>1)</sup> ... and the court must direct the clerk of the court to refer a copy of the record of the evidence concerned to the National Commissioner of the South African Police Service for consideration in terms of section 11 the court must direct the clerk of the court to refer a copy of the record of evidence concerned to the National Commissioner of the South African Police Service for consideration in terms of section 11 of the Arms and Ammunitions Act, 1969.

#### Recommendation

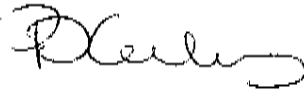
Any reference to the Arms and Ammunition Act, 1969 should be changed to The Firearms Control Act. Act 60 of 2000.

#### Summary

1. In cases of domestic violence the applicant when completing the application form to apply for a protection order needs to be advised on how to complete the form in full, especially in view of firearms.
2. The applicant needs to be reassured that any dangerous weapons in the home or workplace will be immediately confiscated pending the outcome of the Court Ruling in regards to the Protection Order.
3. If the respondent has access to firearms through his or her employment the Court needs to be advised of this.
4. The application form for a protection order J480/830610 should be amended to include questions specifically related to firearms.
5. On completing an application for a protection order the case should be heard immediately and immediate action should be taken.
6. Any reference to the Arms and Ammunition Act 1969 should be amended to The Firearms Control Act. Act 60 of 2000.

Gun Free South Africa feels that the women and children of South Africa need more protection than the Domestic Violence Act is currently offering. We hope that our presentation will highlight the dangers of firearm ownership in South Africa. .

With best wishes



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## Dad shoots family after outing

Willem Pelser

Pretoria – A Nelspruit man shot dead his wife and their two young children in front of his mother-in-law, afterwards shooting himself

Rendi Koning, 43, had only recently been granted a protection order against her husband, Wim, 52, but it couldn't prevent the tragedy that happened on Saturday.

Koning shot his wife, Rendi, as well as his daughter, Melissa, 7, and son, Ivan, 9, in his wife's car outside his home in Sonheuwel.

His mother-in-law, Mirni Prinsloo, managed to run away and tried to get help.

### Marital problems

Rendi and the children had been staying with family in Potchefstroom after she and her husband were having marital problems.

She, her mother, the children and her estranged husband on Saturday morning went to the Kruger National Park on an excursion, said a family friend, Johan Lues.

Koning wanted to get back together with his wife, but his wife didn't want to.

On their return from the outing, Rendi dropped her husband off at his home in Nelspruit. She fetched a play drum, belonging to Ivan, that had remained at his father's house after they moved out earlier this year.

### No argument

Before they drove off again, Wim Koning apparently had some kind of breakdown. He fetched a 9mm pistol from his home and shot dead his family in the car.

His mother-in-law was not yet in the car and could run away. Koning by bicycle rode off to a nature reserve about 500m away and shot himself.

According to Lues, Koning had been a mechanics lecturer at a technical college in Witbank until the end of last year. He retired early and started building a guest house in Nelspruit.

Lues said nothing had happened to trigger the shooting.

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South Africa



Ashwin Moodley, Yaden, 3, Cookie Moodley, centre, (sister in law's birthday party) Manju Moodley (mother) and Tamesha, 2. Photo: Supplied

**Chilling goodbye**

Yogas Nair

"Say your final goodbye to your children." Those were the chilling words a Johannesburg businessman told his estranged wife telephonically, hours before he shot dead his two children and then turned the gun on himself, at the OR Tambo International Garden Court hotel in Kempton Park

Ashwin Moodley, 40, formerly of Darnall on the KwaZulu Natal North Coast, who ran a trucking company from Alberton, sustained a fatal gunshot wound to his mouth, while his daughter Tamesha, two, was shot in her right ear and son Yaden, three, in his forehead, either late on Sunday night or in the early hours of Monday morning



Distraught relative Rajon Moodley said his sister Manju, 34, a senior travel consultant, formerly of Stanger, was devastated by the killings.

He said the couple had been involved in a domestic dispute for the past six months and Manju had left her marital home with her children, and moved in with her brother Sarvesh, 42, in Alberton.

**Funeral service for the father and two children will take place today**

"Manju had sought a restraining order against Ashwin. However, she wanted to reconcile with him and reunite her family. Despite their problems, she allowed Ashwin access to the children."

Moodley said Ashwin saw his children on Thursday for an hour and requested to see them again on Saturday.

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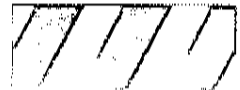
Two-year-old Tamesha Moodley. Photo: Supplied

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## News - South Africa: Chilling goodbye

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"Manju dropped them off with Ashwin at about 6pm on Saturday at the matrimonial home in Alberton, and he was supposed to have returned them to her at 8pm. Her worst fears were realised at about 7pm when Ashwin called her on her cellphone.

"He told her to say her final goodbye to the children. Both the kids were hysterical and screaming. Before my sister could say anything further he cut the call."

Moodley said they immediately alerted the police and a search was launched for the father and two children.

He said 24 hours later at about 8am on Monday morning, police alerted them to the killing. Johannesburg police spokesman Nxolo Kweza said Ashwin Moodley had checked into the hotel on Saturday night under a false name. She said he paid cash for his accommodation until September 16.

Kweza said the bodies were discovered in the early hours of Monday morning by hotel cleaning staff.

She added guests in the room next door to Ashwin Moodley had heard strange noises on Sunday night and tried to investigate, but to no avail. She said it appeared that Moodley had turned up the volume of the television before the shooting.

The funeral service for the father and two children will take place today (Wednesday) at 1pm at the Alberton Cemetery.

This article was originally published on page 1 of  
on September 16, 2009

Showing page 1 of 4 comment pages, 37 total comments

4 Weeks ago wrote :

you have to be in a really dark place to be able to kill your own kids... shocking! How can the mother recover from something like this? May God be by her side through this bereavement!

4 Weeks ago wrote :

This is a very tragic story. He is such a coward for taking the lives of his innocent kids. they did not deserve to die! He wanted to punish his wife but that does not give him the right to kill his kids! To the mum, may God grant you courage and strength at this time. you are in our prayers!

4 Weeks ago wrote :

A coward of a man. The same also when a man/woman get hitman to kill off their spouse. I fear God so much, that I will not even think of killing another person and not even myself... that means straight to Hell if you believe there is such a place.

4 Weeks ago wrote :

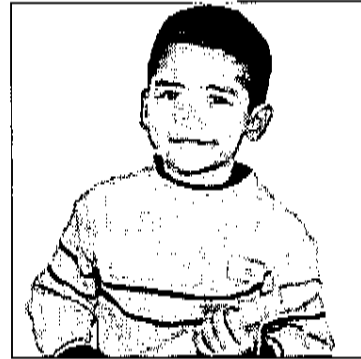
Why would you allow access to a man you have a restraining order against? Isn't it enough that damage has been done, to which the children were a witness. To put your kids to that kind of trauma and abuse. When will women learn not to allow abusive fathers the rights to their children???? No court or no law allows this, why do women do it?

4 Weeks ago wrote :

What has happened is so tragic and sad . two innocent children had to pay a price that was not theirs to pay . Mr Moodley was a great guy as said by the brother in law and the fact that the wife was even considering reconciling and also she identified his body first...nobody would want to reconcile a marriage and live in a home full of anger, hatred and violence which proves Mr Moodleys character . This is a story of a man who loved his family so much that just couldn't live without them... ever so often the female generation only realise when its too late!!!!!! Maybe the law should actually stop feeling pity for the Females and grant access and custody based on the childrens best interest.....

4 Weeks ago wrote :


It is extremely disgraceful that a parent behaved in that manner. As parents your duty is to protect your children and not bring harm to them . If he wanted to get even with his wife he should have killed himself only. To the mother: I cannot put myself in your shoes and imagine what your going through but remember



Three-year-old Yadan Moodley. Photo: Supplied

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