

CIVILIAN SECRETARIAT FOR POLICE

CONFIDENTIAL



**ENQUIRY INTO THE FUNCTIONING OF THE CENTRAL FIREARMS
REGISTRY AND THE IMPLEMENTATION OF RELATED ASPECTS OF
THE FIREARMS CONTROL ACT, 2000 (Act 60 of 2000) AND THE**

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LIST OF ABBREVIATIONS

AFIS	AUTOMATED FINGERPRINT INFORMATION SYSTEM
AVS	APPLICATION VERIFICATION SERVICES
CAS	CASE ADMINISTRATION SYSTEM
CFR	CENTRAL FIREARMS REGISTRY
CRC	CRIMINAL RECORD CENTRE
CRIM	CRIME RISK INFORMATION MANAGEMENT
DFO	DESIGNATED FIREARMS OFFICER
DHA	DEPARTMENT OF HOME AFFAIRS
DVA	DOMESTIC VIOLENCE ACT
EDMS	ELECTRONIC DOCUMENT MANAGEMENT SYSTEM
FCS	FIREARMS CONTROL CENTRE
FLASH	FIREARMS, LIQUOR AND SECOND-HAND GOODS CENTRES
FRC	FIREARMS REGISTRY CENTRE
IBIS	INTEGRATED BALLISTIC INFORMATION SYSTEM
ISM	INFORMATION AND SYSTEMS MANAGEMENT
IT	INFORMATION TECHNOLOGY
NI	NATIONAL INSTRUCTION
PEP	PERFORMANCE ENHANCEMENT PROGRAMME
PSIRA	PRIVATE SECURITY INDUSTRY REGULATORY AUTHORITY

1. Introduction

In the drafting of the FCA, there were a number of key issues that the implementation of this Act was intended to address. These included the following:

- Preventing the proliferation of specifically small arms in the country (especially handguns and assault firearms);
- Addressing and tracking the large number of small arms (specifically handguns) issued to members of various government departments under the apartheid;
- Actively encouraging a culture of responsible firearm ownership in South Africa;
- Cleaning up the National Firearms Register which, at the time, still included firearms issued to Namibian citizens emanating from the South-West Africa era;
- Clearing the National Firearms Register of records of those firearms licensed to deceased persons and which had not been clearly handled by the deceased's respective estates;
- To ensure that the development of a Central Firearms Registry which would address the integrity of data captured and available to government of accurate information regarding who possesses registered licensed firearms;
- Initiating a system through which firearms licences would be issued to applicants who had shown that they were responsible people who could be entrusted with firearms through the issue of competency certificates (ascertaining that a person to whom a firearm licence was issued was a stable and responsible person as provided for in Section 6 of the FCA whilst also complying with the stipulations of Regulations 13 and 14); and
- Ascertaining that applicants for firearm licences have proficient knowledge of the important aspects of the FCA, as well as being proficient in the handling of the various categories of firearms for which applications for licences can be submitted (compulsory training in SAQA approved unit standards pertaining to different categories of firearms - so-called proficiency training).

- d. establish a comprehensive and effective system of firearm control and management; and
- e. ensure the efficient monitoring and enforcement of legislation pertaining to the control of firearms.¹

In introducing the Act in Parliament, the then Minister of Safety and Security stated that -

"The Act is a critically needed and constructive piece of legislation which lays the foundation for more structured control of firearms in South Africa and ultimately Southern Africa. The legislation is comprehensive, yet easy to read and understand.

The active and sound implementation of this Act will further enhance the ability of the South African Police Service to serve and protect the community, and will ultimately bring about a safer South Africa."

2. Background to this report

Parliament passed the Firearms Control Act (FCA) in 2000. The FCA was assented to by the President on the 4 April 2001 and put into operation with effect from the 1 July 2004.

The main reason that the Act only came into operation in 2004 was to allow SAPS (who are responsible for implementing the Act) to put in place the necessary systems and processes required for the implementation of the Act.

In the lead up to the Act becoming operational, SAPS were allocated R290 million to enable them to develop the necessary systems and capacity required for this implementation.

The Act requires the Registrar (the National Commissioner of the Police) to establish a Central Firearms Registry. The Central Firearms registry has been established under the Visible Policing Division.

The Act provides for an Appeals Board to hear appeals from people who have had their licenses refused. The Appeals Board is appointed by the Minister of Police. The SAPS are required to provide the administrative support

Despite the intention of the Act and resources allocated to the CFR, significant problems still exist with regard the implementation and administration of the Act.

The importance of ensuring a sustained and efficient implementation of the Act was recently highlighted at the 2010 Cabinet Lekgotla. This area was identified as one of the priority action areas for the Department of Police.

In addressing this priority and government's approach to firearm control, it has become necessary to tackle the challenges that the department is facing with regard to the CFR and the legislative processes surrounding the Act.

In June 2010, the Minister of Police appointed a Task Team led by the Civilian Secretariat for Police to undertake a thorough and in-depth assessment of the problems experienced with the implementation of the Act.

The Task Team's role was, through an assessment of the current situation, to develop a clear set of recommendations on how the problems in the CFR administration of the Act could be addressed.

2.1 Terms of Reference of the Task Team

The assessment was required to address both the functioning of the CFR, and the legislative issues impacting on the firearms licensing processes and related matters in terms of the Act on the other.

The assessment drew on available expertise and experience relating to systems and processes that could contribute to improving the performance of the CFR as well as matters relating to firearm legislation.

The assessment covered the following areas:

- **Legislative issues**
The identification of gaps and weaknesses in the Firearms Control Act and Regulations
- **Process issues**
An assessment of the different processes, mechanisms and systems

2.2 Process involved in the assessment

In carrying out the assessment the following steps were followed:

- Workshops held with the task team members to identify the approach to be used during the assessment.
- Conducting site visits to the CFR and engaging in discussions with key officials deployed at the CFR.
- Reviewing the licensing process at the CFR and observing how the process and the process flow worked within the CFR. This included an assessment of the end-to-end licensing process as well as examining a sample of licenses being processed by the CFR.
- Receiving and analysing official presentations from staff at the CFR, ISM, CRC and the Appeals Board. The ISM, SITA and the CRC were consulted with regard to their role in supporting the functioning of the CFR and not for evaluating the delivery of their mandate in the Department.
- Conducting site visits to Provinces and local Firearm Registry Centres at the following areas:
 - a. Gauteng: Brooklyn, Linden, and Soshanguve,
 - b. KwaZulu-Natal: Empangeni and KwaMashu,
 - c. Mpumalanga: Delmas, Middelburg, Nelspruit, and Witbank,
 - d. Western Cape: Mitchells Plein, Nyanga and Phillipi East.

Two Provincial DFO offices were visited (Gauteng and Mpumalanga). This was done in order to determine the role of a Province in the implementation of the Act.

- Conducting interviews with a variety of stakeholders and role players. These included people from the legal fraternity, NGOs, officials at the CFR, police officials investigating corruption at the CFR as well as CRC, ISM and SITA staff (where applicable).

- Conducting analytical reviews of documentation (the Act, Regulations, Directives, National Instructions, Application Forms, and other relevant documents).
- Reviewing certain Court Judgement and the 2007 Public Protector's Report.
- Conducting a series of workshops with the Task Team based on information received to identify and analyse gaps and weaknesses with the current functioning of the CFR and implementation of the FCA.

3. Budget of the CFR

As stated earlier, in order to allow the Police to implement the FCA, SAPS received R290 million during the initial design and implementation phase of the Act to enable them to effectively implement the Act.

Since 2007, the department has spent more than R307 997 860 on the CFR and National IT systems.

The table below indicates the amount spent since 2007 on the CFR and IT systems linked to the CFR.

2007/2008	2008/09	2009/10
121,730,723	84,796,489	101,470,648

People applying for licenses are required to pay licensing fees and the money received is then paid back to National Treasury. During the 2009/10 financial year, the department paid National Treasury an amount of R42.9 million for revenue received through the licensing process.

The CFR does not exercise direct control over finances relating to all components of the Act and the budget for provinces and stations are managed and allocated by provinces and local stations as part of the crime

for licenses are required to obtain a competency certificate prior to a license being issued.

One of the biggest challenges for the effective implementation of the Act is the ability of the CFR and provinces to process license applications.

There are currently major backlogs in processing these licenses and this backlog is the major cause of litigation. These backlogs have also resulted in a general lack of public confidence in the ability of SAPS to implement the FCA.

One of the problems experienced by the Task Team is that the figures provided by the CFR are at times contradictory and it has not been possible to accurately verify all the figures provided by the CFR. However, the Task Team has compiled a set of figures based on the information obtained from the CFR. (Most of these figures were as of 30 July 2010).

Listed below is the breakdown of the backlog that currently exists with regard to people who have applied for new firearm licenses under the FCA, people who have applied for competency certificates in terms of the FCA.

NEW LICENSES APPLIED FOR UNDER THE FCA					
Before 2007	2007	2008	2009	2010	TOTAL
299	1 296	3 701	39 499	81 300	126 095
COMPETENCY CERTIFICATES APPLIED FOR UNDER THE FCA					
Before 2007	2007	2008	2009	2010	TOTAL
15 550	32 812	76 731	287 493	42 864	455 450

As at 30 July 2010, the backlogs with regard to processing of competency and new firearm licenses indicates that there were **126 095** new licenses and **455 450** competency certificates still to be processed by the CFR.

The delays in the finalization of renewals is as a result of a number of factors, including forms not being filled-in correctly, delays in the finalization of competency certificates by the CFR and delays in conducting safe inspections.

If one combines the number of applications outstanding related to the renewal of firearms in compliance with the FCA is **804 942** and those outstanding regarding new licenses and competency certificates, the total number of applications outstanding as on 30 July 2010 was **1 387 487**.²

Some police officials have argued that the renewal of licenses need not be prioritized because, as long as the person has applied for renewal within the specified time-lines, the old green license remain valid along as the applicant has proof of application for renewal.

While the argument of these police officials may allay the fears of some of the public whose licenses have yet to be processed, it also means in effect, the control measures envisioned by government when the FCA was passed are not in effect and are not being implemented.

The table below is the provincial breakdown of firearm licenses renewals that have yet to be processed by provinces. (figures applicable at 30 July 2010).

PROVINCE	TOTAL
Eastern Cape	56 697
Free State	62 735
Gauteng	260 094
Kwazulu-Natal	101 284
Limpopo	39 895
Mpumalanga	96 116
North West	58 586
Northern Cape	40 758
Western Cape	88 777
TOTAL	804 942

The table below shows a break down of the dates on which the renewal applications were received.

OUTSTANDING RENEWALS					
Before 2007 (4 to 6 years outstanding)	2007 (3 years outstanding)	2008 (2 years outstanding)	2009 (1 year outstanding)	2010	TOTAL
68 618	103 465	159 836	454 115	18 849	804 942

Listed below is a sample of some of the stations visited by the Task team and the backlogs regarding renewals at these stations.

Name of Centre	Renewals Backlogs
Brooklyn	11931
Delmas	394
Linden	6571
Middelburg	196
Nelspruit	6859
Soshanguve	2658
Witbank	3900

4.2 Corruption and irregular issuing of license

One of the key objectives of the FCA was to clean up the database of who owned firearms and to be able to ensure more effective control over the issuing of licenses to individuals.

During the assessment, a number of concerning issues were raised regarding irregularities in the issuing of firearms licenses. Some of these irregularities include:

- The issuing of firearm licenses under the old Arms and Ammunition Act. Under the old Act, green firearm licenses were issued and under the new FCA white firearm licenses are issued. In essence, once the FCA came into operation no licenses should have been issued under the old Act and no further green licenses should have been issued. Some of the provinces and CFR still allegedly have equipment that

- The task team was informed by legal representatives of firearm owners that they were aware of people who had lost firearms and failed to report these losses. To avoid prosecution or sanctions, the owner of the lost weapon licensed the weapon on the new system as still being in his/her possession.
- Firearm owners approached the Task Team in September 2010 and provided information on 12 known cases where firearm licenses had been approved and issued to people. In each instance, the individuals received a license for a firearm for which they had not applied. It would appear that, in most of these cases, the individuals had under the old Act legally possessed these firearms but had subsequently legally disposed of firearm. This would imply that some licenses that were issued were not based on application forms and do not comply with the provisions of the FCA. The exact number of such licenses issued is difficult to accurately estimate because the Task Team relied only on people willing to come forward and report such irregularities. What is also of concern is these licenses were all issued in the period after the assessment begun and it is possible that officials in the CFR in an attempt to hide some of the backlogs were randomly issuing licenses without proper process.

In addition to irregularities in the issuing of firearm licenses, there were also serious allegations made by members of the legal fraternity regarding corruption in the issuing of firearm licenses. The chair of the Task Team met with a police official working with members of the DPCI on cases related to corruption in the CFR and at the provincial level regarding the issuing of licenses. The Police official corroborated some of the allegations made by the members of the legal fraternity. The areas of corruption appear to relate to the following:

- Issuing of licenses to people who legally should have had their licenses refused.
- People having to pay bribes to ensure that their licenses are issued and to avoid delays.
- People being able to license prohibited firearms which are then not accurately listed on the system.

One of factors that contributed to some of these problems and lays the

In theory, the old system should only be used to draw down information and no person should be able to issue licenses based on the old system. However allegations have been made (and confirmed by SAPS investigators) that some CFR staff are issuing licenses on the old system and then applying for renewals on the new system and back-dating these renewals to correspond with the deadline set for renewal of licenses need to be seriously investigated. What is of particular concern is that it has been alleged that abuse of the dual systems is being used to license weapons that the new system will not allow licenses for, such as AK-47s.

As long as there is a backlog in the renewal of licenses under the old Arms and Ammunition Act and other issues related to renewal of licenses under the FCA are not resolved, the existence of dual databases and the potential this creates for abuse will constitute a serious risk to the effective implementation of the FCA.

4.3 Integrity of the databases system

One of the objectives of the FCA was to ensure that the database system created under the Arms and Ammunition Act was cleaned up and to create a new database under the FCA. The new database was intended to provide an accurate and comprehensive picture of who owns and possesses legal firearms with the correct details regarding such persons and weapons licensed. However, the backlogs in renewal applications coupled with irregularities in the issuing of firearm licenses under the FCA raises serious questions regarding the integrity of the new database system.

4.4 Court cases lodged against the CFR

As a result of the backlogs and inefficiencies in the processing of firearms the Department, the National Commissioner and the Minister of Police have been subjects of significant litigation and court applications resulting in significant legal costs and embarrassment to the department, as well as to the Minister and National Commissioner.

While there are certain elements who seek to undermine the FCA and have initiated litigation aimed at undermining the intentions and objectives of the FCA the majority of litigation appears to relate to issues of administration

not communicated to the applicant, resulting in an unnecessary court order being granted.

The Task Team was also given a document of a court order granted on 21 March 2010 where the court instructed the CFR, the Minister and the National Commissioner to ensure that the applicant's application was processed within 30 days. Since then, there has been not progress and the CFR have not communicated with the applicant. The situation now exists where the applicant's attorneys could now apply for a bench warrant against the National Commissioner or the Minister for contempt of court.

4.5 Independence of the Appeals Board

The Minister of Police appoints the Appeals Board with the intention that the Appeal Board will operate independently of the CFR. However, the relationship between the Appeals Board and that of the CFR has become blurred and the Appeals Board is perceived to be a body that rubber stamps the decisions made by the CFR.

In the High Court case of *George Black vs the Minister of Safety and Security*, the judge in his ruling criticized the Appeals Board for not having the expert knowledge of firearms to enable it to properly rule on cases and that the impression created was that the Appeals Board merely rubber stamped the refusals or decisions of the CFR.

4.6 Renewals under the FCA

FCA states that competency and firearm licenses should be renewed every five years if the weapon is licensed for self-defense purposes. For a person to be licensed to possess a restricted firearm for self-defense purposes, such a license must be renewed every two years. A license to possess a firearm for occasional or dedicated hunting or for sport shooting, the renewal period is every 10 years. All competency certificates are to be renewed every five years.

The FCA or Regulations do not describe processes or procedures to be followed in respect of re-application for competency, other than to state that a competency certificate lapses after five years (Section 10(2) of the Act).

The table below lists the number of competency certificates which will come up for renewal over the next five years

2009	2010	2011	2012	2013	2014
8	76 294	76 305	102 634	126 634	111 578

The area relating to the issue of renewal of competency certificates needs to be addressed as a matter of urgency in order to ensure compliance with the provisions of the FCA. The CFR needs to have a plan in place to address those persons who will have to renew their licenses and competencies in the next three years.

In addition to competency certificates that need to be renewed, there are also firearm licenses that will need to be renewed over the next five years in compliance with the FCA.

The table below indicates the anticipated license renewals that will need to be dealt with during the next five years.

2010	2011	2012	2013	2014
2 214	27 540	67 273	68 956	48 565

The process around these renewals also needs to be properly communicated to gun owners. There is currently considerable confusion emanating from mixed messages being sent from the CFR.

4.7 South African Hunters & Game Conservation Association vs the Minister of Safety and Security

In June 2009 the SA Hunters and Game Conservation Association (SAHGCA) was granted an Interim relief order against the Minister of Safety and Security (Minister of Police) in the North Gauteng High Court. The interim order in essence negates the obligation for firearm owners who possess valid licenses under the old Arms and Ammunition Act to re-license their firearms under the new FCA within the timelines specified in the transitional provisions of the FCA.

issued a statement supporting the Firearm Amnesty and supporting Minister's call for all people who had missed the cut off date for relicensing their weapons under the new FCA to make use of the Amnesty period to apply for licenses under the FCA.

A series of settlement discussions were then held between the SAHGCA legal representatives and the department's legal representatives. A settlement agreement was drafted which in principle both sides agreed to. The settlement agreement would see the SAHGCA discharge the order and thus allow the implementation of the FCA requiring all persons with licenses issued under the old Act to apply for new licenses under the FCA. However the stumbling block in resolving this matter has been the concerns the SAHGCA have regarding the efficiencies and irregularities in the manner in which the CFR is handling licensing processes. Discussion held with SAHGCA would indicate that SAHGCA is cognisant of the fact that the problems in the CFR cannot be resolved overnight but would want to see that there is a process being put in place to resolve problems in the functioning of the CFR.

The effective implementation of the FCA is dependent on this case being resolved in favour of the order being overturned or discharged. There are currently two options available to the department and the Minister:

- 1) Our department's legal representatives can go back to court and re-argue the matter and attempt to have the interim order overturned. In such an event, the opposing counsel would argue to have the order made permanent.

There were serious problems with the manner in which the initial case involving the SAHGCA was handled from the department's side. The advocate representing the department in this matter has also pointed out serious flaws in the arguments used to underpin the interim order granted. However the risk in this approach is that the current backlogs and administrative problems in the CFR could jeopardise our chances to successfully argue the case.

- 2) The department's legal representatives negotiate a settlement of the case and get the interim order discharged through mutual agreement.

The media and gun owners have frequently used the figure of between 800 000 and 1 million people who failed to renew their licenses under the FCA. However the figure listed on the CFR database is estimated to be between 60 000 and 100 000. These figures appear to be corroborated by some of the gun owners' legal representatives.

Whichever way the matter with SAHGCA is resolved, there will need to be a contingency plan in place to deal with those potential applications to ensure this does not cause further backlog.

4.8 Legislative issues

Amendments to the FCA were finalized in 2007 and to ensure these amendments took effect regulations were required to be finalized and proclaimed. The regulations were published for comments and, while comments were received more than 12 months ago, these regulations are yet to be finalized.

On the instruction of the Minister, the Civilian Secretariat for Police is now in the process of finalizing the regulations but certain problems in the Amendment Act have been identified that have delayed the finalization of these regulations. The draft Regulations are cumbersome and contradictory therefore redrafting is required to ensure alignment with the Amendment Act, 2006.

Considerable work has now been done and it is now envisaged that the final draft of the regulations will be ready for approval by the Minister during November 2010.

4.9 Support for the FCA

Lessons from countries like Canada, who have successfully implemented firearms controls, point to the success in implementing gun controls relying, in part, on securing the buy-in and support of key role players including large sections of gun owners.

In South Africa there are two types of gun owner associations, those that

5 Summary of key problems identified during the assessment which give rise to the challenges

The following section summarizes some of the key problems identified by the Task team which give rise to the challenges being experienced in the implementation of the FCA. The section only provides a broad summary and the actual details of the problems are contained in Annexure A – Situational Analysis of the CFR.

5.2 Management and Organizational Design

One of the key problems identified by the assessment is the dual functions of the many of the officials based at the CFR and those appointed as DFOs. They all (with the exception of Gauteng) fall under FLASH, which deals with Firearms, Liquor and Second-Hand Goods. This means that their focus is on all three of these areas and they are not able to focus exclusively on the FCA and firearms-related matters.

Additionally, a number of the DFOs and their resources at a provincial and station level are roped into additional general crime prevention work thus affecting their ability to function as DFOs.

The organizational design of the CFR is over complicated and does not necessarily speak to the requirement of the Act and regulations. Staff at the CFR and provinces who were interviewed did not understand or could not explain the organisational structure. Roles and responsibilities also appear to change on an ad-hoc basis largely due to reactive responses by senior management to problems. The assignment of authority, roles and responsibility are also blurred and unstructured. Junior officers have functions that are not accessible to their supervisors. This practice, together with a lack of supervision, creates a serious security risk. In addition, the organizational plan does not support proper planning. There appears to be a lack of strategic vision resulting in poor planning, and fire-fighting to resolve problems. Ultimately there appears to be a lack of capacity to formally plan and address problems.

The day-to-day operations of the organizations are conducted in a more

ISM and CRC are integral to the successful implementation of the FCA but they do not appear to have been drawn into the CFR planning and this results in ad-hoc and unplanned requests being made to these two entities.

The SAPS has five key strategic interventions with regard to firearm control as outlined in their five-year strategic plan, but these are not accompanied by an effective and detailed implementation plan.

When the Act finally came into operation, SAPS presented an implementation plan to Parliament in 2004 and this plan is yet to be fully implemented.

Instructions and directives emanating from the CFR are at times confusing and poorly drafted and communicated. (See page 41 and 42 – Annexure A Situational Analysis). In addition there appear to be no consequences for any failure to implement directives or instructions. The result is that these are often treated as suggestions rather than directives or instructions.

The CFR has a policy and legislative unit as required by the Act. However, this unit is ineffective and as a result there is a lack of continuous research and policy development.

There is no effective organizational risk management plan in place and this places the implementation of the FCA at risk.

5.3 Communication

One of the key problems affecting the implementation of the FCA is poor communication. This relates to both internal and external communication.

Internal communication information management lines between the CFR and its provincial components are unclear, poor, sporadic, inadequate and sometimes confusing to the intended recipients.

The same applies to external communication. There is no properly structured information sharing strategy that is intended to communicate with members of the public. Instead of communicating requirements for licensing to members of the public, the CFR has rather chosen to keep the public in the

The inability of the CFR to communicate with members of the public and stakeholders has resulted in serious frustrations. In some cases members of the public who have received no communication from the CFR regarding applications assume these applications are lost and submit duplicate application thereby further clogging up the application system.

The CFR has recently established a call centre in order to improve communications. However call takers at the Call Centre are not capacitated and trained to provide applicants with correct and accurate information. There is also a lack of data integrity on the IT systems supporting the call takers and no proper records kept with regard to the nature of the queries received. The Call Centre, which should serve as the front desk as well as the image of the CFR, is neither properly functional nor empowered with current information and therefore is unable to play its role effectively.

5.4 Complication of processes, discretion and disorganization

The Act itself, as explained by the then Minister of Safety and Security, is not that complicated. However there has been a tendency by the head of the CFR to over complicate processes. Some sections of the application forms, for example, do not speak to the Act and have been over complicated and could be better designed. The forms need to be redesigned to be less complicated and properly aligned to the Act.

The systems in place at the CFR are completely dysfunctional and rather than assisting in streamlining the process, they serve to create blockages and delays.

There is a serious lack of clarity regarding the processes to be followed in applying for licenses and competencies. The forms make provision for the applicant to write a brief motivation on the actual forms themselves. However, when some applicants do not submit a further detailed motivation (not specified on the forms), the application is denied due to lack of motivation. Equally when some applicants submit detailed application alongside the form the local DFO informs them it is not necessary and removes the application from the form before submitting it to the CFR.

Despite the complex systems established and significant resources provided

5.5 IT systems and information management

A significant portion of the budget allocated to the implementation of the FCA is allocated to IT. In the last three years more than 97 million has been spent on IT alone. (*This does not include the amount spent in the previous years or the amount spent in the lead up to the Act becoming operational*).

However despite this investment in IT, there is a lack of understanding by the CFR of the value derived from effective management of information.

- The IT systems as developed are not effectively utilized by the staff at the CFR and much of the work done by the CFR is done manually. The manual statistics and the statistics drawn from the system don't correspond. Staff at the CFR claim the system statistics do not give an accurate picture and have therefore resorted to using manual statistics.
- IT systems do not always speak to the actual requirements of the Act and regulations and may need to be redesigned to ensure applicability.
- Certain information is not readily available through the IT system and access to such information requires ISM and SITA to develop a programme (at additional cost) in order to obtain what should be available information.
- Each employee of the CFR who has a responsibility to process information into the electronic database, must *only* have access to the electronic data system that relates to his or her job description. All manual tasks must be eradicated.
- It does not make sense to have duplicate computer systems to track, plan, store and evaluate the performance of the CFR.
- IT equipment needs to be properly updated and maintained to avoid situations where printers used for printing licenses are not working and there are unnecessary delays in the printing of licenses. At the time of the assessment Witbank DFO offices had been waiting more than two months for ISM to facilitate connectivity. In both Gauteng and Mpumalanga problems with their printing equipment had not been resolved for more than six month resulting in all renewed licenses having to be sent to the CFR for printing.

also does not have fields enabling the CFR to register additional barrels for the same firearm. The database cannot link barrel serial numbers with the specific barrel's manufacturer(s), as there is no function to log an international unique serial numbering system on the database.

Coupled with the problems with the IT systems, local stations and Firearm Centers do not have a singular approach to how information should be processed and stored and this caused serious problems in the process and leads to loss of documentation.

5.6 Role of the provinces and provincial accountability

At provincial level, there are nine (9) Designated Firearm Officers or Provincial Firearm Registration Centres which are structured to report within provincial Crime Prevention Units. These offices are managed by the Provincial DFO. The posts of the DFOs are funded from the provincial budgets. The DFOs have dual reporting lines, i.e. directly to Provincial Head: Crime Prevention and the Head: Central Firearms Control Register.

There are 284 Local Firearm Registration Centres that serve as the entry point for applications. These centres are structured according to two main types of models, i.e. those attached to normal police stations and those that are located independently from police stations. Only Gauteng centres are representative of the latter model. In all provinces except Gauteng the LFRC is managed by the station DFO who reports to the Station Commander and not the Provincial DFO.

There are a number of problems associated with the manner in which the Provinces handle the FCA. These include:

- Because the DFOs are not part of a dedicated structure and fall under crime prevention at the local and provincial level, there are no proper career-pathing or skill retention strategies in place. This has led to a high turnover of DFOs and lack of expertise in this area.
- The DFOs are often drawn into non firearm related activities and crime prevention operation and at times this compromises the work they are expected to do with regard to the FCA.
- There is an uneven approach to resource allocation and a number of

cases on a haphazard system of command and control without structure and consistency.

- There are no standardized job descriptions for DFOs that speak to the requirement of the FCA.
- A number of DFOs have taken up positions without receiving any training compromising the quality of implementation of the FCA.
- The DFO training curriculum is not as adequate as it is purported since we still have generic procedures continuously published in drips and drabs on various circulars. This is an element of crisis management or a "manage-as-you-go" tendency which is a sign of poor planning and direction.
- There is no accountability for lack of delivery and applications lie at the station for long periods without being sent through to provinces and through the province to the CFR. Even when they are sent to provinces they are not always sent through timeously.
- There are no proper quality checks on the applications submitted and this resulted in forms being sent back to provinces and local stations for correction.
- There is no overtime budget to address backlogs.
- There is no proper supervision of the SAPS 86 Firearm Register and this has far reaching consequences.

5.7 Blockages in the process

There are a number of problems that contribute to the backlogs at the CFR and to the effective implementation of the Act. Some of these problems include:

- Applications lying at the police station for long periods of time without being sent through the Province and where appropriate the CFR (in the case of competencies and new licenses).

There is a huge backlog on files awaiting AFIS Reports. At the end of July 2010, there were about 81 000 cases recorded that had been sent through since September 2009. The CRC takes four to six weeks to return an AFIS report per CFR query, instead of the normal 48 hours experienced with private security, private enquiries and export queries.

The CFR themselves also complicate the AFIS process. In some cases application made for competency and applications for firearm licenses require the applicant to submit a new set of fingerprints. There is one documented case where a sports person had to submit 18 sets of fingerprints on one day for the separate applications. (This also raises questions around how a person can apply for 18 licenses). One of the areas that need to be addressed is the retention of finger prints of firearm owners on our finger print database system which would negate the necessity of finger prints having to be taken each time the applicant applies for a license or renewal of a license.

In addition to the problems listed above there are a number of other areas that cause delays in the licensing process:

- o There are six Consideration Committees, each headed by a Lieutenant Colonel that are tasked with considering thousands of competency and new firearm applications, alongside other functions that they conduct at the CFR, e.g. training. This section has an unpleasant backlog of 201 890. A significant number of these applications do not need to go to the Consideration Committees because the applicants have criminal offenses that prohibit them from qualifying for firearm licenses. These applications should have been refused immediately on receipt of the AFIS report.
- o The CFR sometimes uses incorrect SAPS provincial addresses for printed renewal licenses, thus delaying the issuing of finalized licenses i.e. Gauteng sometimes receives Mpumalanga licenses and has to arrange for them to be rerouted.
- o There is a lack of effective document tracking and recording at all levels in the process. In certain cases and documentation reviewed by the task team would indicate that certain documents

records check was received on 26 May 2008 and based on this the application should have been refused immediately at this time.

- There are two other areas that are responsible for causing delays in the licensing process. The first relates to the safe inspections and the second to interviews. A process has already been developed by CFR to address the safe's issue but there is also a need to look at a better approach to deal with interviews that need to be conducted.
- In provinces, the renewal of licenses under the FCA is the responsibility of the provincial DFO. In Mpumalanga, for example, the main reason advanced for failure to process these renewals is that, in terms of the delegation, only one person considers all provincial renewals, i.e. the Mpumalanga provincial DFO, who also performs all FLASH management tasks and is sometimes expected to perform crime prevention projects.

5.8 Role of Appeals Board

While the Appeals Board does not have serious backlogs in the processing of appeals there are other problems that affect its ability to function effectively as contemplated in FCA.

- Currently the Appeals Board is processing applications refused under the old 1969 and it is unclear why this is happening given that the new Act came into existence in 2004.
- The Appeals Board lacks the necessary expertise to identify different types of firearms and rely on the CFR to provide expert assistance. The use of CFR staff in this manner compromises the independence of the appeal process. The appointment process should make provision for the appointment of expertise not linked to the CFR that can assist the Appeals Board in their deliberations.
- The attorneys used by the Appeals Board and those used by the CFR

- Given that the Appeals Board is appointed by the Minister their reports should go directly to the Minister who should receive regular updates on the progress made by the Appeals Board and problems that are arising.

6 OTHER ISSUES

6.1 Dealerships

Sections 40, 54 and 68 of the FCA provide for the establishment and maintenance of dealers, manufacturers and gunsmith databases respectively. Section 39 (3) of the Act requires that a dealer must establish and maintain a workstation which links his or her registers to the central dealers database in the prescribed manner. Also, as part of their duties, manufacturers and gunsmiths are expected to conduct the same. This provision of the Act is configured as the e-connectivity by the CFR. Although this system has been developed, its efficiency and value has not yet been realized because most of the information is still stored manually and this makes it cumbersome for the CFR to conduct real time and continuous updates on the crucial databases in order to ensure the integrity of the information stored. Full reliance is put on the updates from dealers, gunsmiths and manufacturers who are expected to synchronize their registers (mostly manually) with the CFR.

Some of the implications of the poorly managed information in these databases are the following:

- The CFR cannot provide a proper figure on the number of all firearms with manufacturers, dealers and gunsmiths in South Africa to date.
- There are duplicates in applications because the dealers who have not updated the change-of-ownership (second-hand firearms) on their registers have not been detected by the sporadic CFR or DFO inspections and the CFR still has the same firearm under the previous owner. In some instances, even when the dealer has updated this information, the CFR register still captures the firearm under the previous owner because the update on the system is neither automatically done with the e-connectivity

should not wait until SAPS have finalized their IBIS process. There would therefore be some merit in running the IBIS testing process parallel to SAPS process and require all security companies and new firearm license applicants to IBIS test their weapons.

7. Conclusion

The challenges in the implementation of the Firearms Control Act not only undermine government's approach to firearms but lay the police open to challenges in terms of the Promotion of Administrative Justice Act (Act 3 of 2000).

Despite the emphasis of government on the need to ensure the effective implementation of the FCA, the CFR and provincial structures are currently not in a position to address this outcome. In order to address this outcome, it is imperative that remedial steps are taken to address the challenges. Failure to address these challenges not only affects our ability to implement the FCA but also lays the department open to constant and unnecessary litigation.

The steps that need to be taken can be broken down into the following areas:

- Urgent immediate interventions to address backlogs and clear these backlogs.
- A clear communication strategy to inform the public about the measures being taken to rectify problems.
- Longer-term system and organizational design of the CFR to align it more effectively with the FCA and ensure future backlogs do not occur.
- Restructuring of the Management of CFR to enable effective implementation of the FCA.

- Thirdly to address the need to redesign and reorganize the CFR to ensure that the problems identified are not able to re-emerge.
- Fourthly to develop a longer term strategy that will speak to the initial intentions and policy behind the FCA and speak to Government's approach to tighten controls and reduce the number of firearms in circulation.

However, the success of all four areas of approach is dependent on Senior Management of the CFR being prepared not only to adapt to new processes, systems and buy-in to the need, but to change the way things work within the CFR. This may well require a redeployment of certain key senior management (including the Head of the CFR) who has shown a reluctance to recognize the problems faced and who may themselves be part of the problem.

8.1 Addressing current backlogs

The effective implementation of the FCA is heavily dependent on the resolution of the existing backlogs. There is a need for the department to take decisive steps to reduce the backlogs. The steps should include:

- ***The establishment of an intervention team to address backlogs:*** (the intervention team should be given 9 months to resolve all outstanding backlogs).
- A Steering committee needs to be put together consisting of;
 - Representative from the National Commissioner's office.
 - Police representatives from each province.
 - A representative from the Civilian Secretariat for Police.
 - Representatives from the CFR, ISM, CRC.
 - A turnaround expert from BACSA who worked on the assessment (this will be done in terms of the MOU signed between BACSA and SAPS)
 - Other persons as required

The steering committee should meet with people who have been involved in turn around strategies in Home Affairs etc to identify best practices.

Under the Steering Committee a task team made up of DFO and people

- Revise processes and administrative functions at the CFR to speed up the processing of the applications.
 - Create additional capacity at the CRC to process the maximum number of criminal record checks in a 24-hour shift.
 - Create additional printing facilities to print the licenses.
 - All attempts should be made to have the firearms data base audited to result in an improvement in the data integrity.
 - Create an effective communications strategy to keep applicants informed of the progress achieved to have their licenses issued. Also request assistance from applicants to supply outstanding information or data. Provide data to inform the community of how many licenses have been issued to date. Also attend to complaints received from applicants.
 - Introduce a plan to clear out any backlog that might exist at the Appeals Board.
 - The task team should agree on a timeframe to complete the project that should preferably not exceed nine months.
 - Report monthly to the Steering Committee.
 - There should be a cut-off line to define which applications forms part of the existing backlog and which applications are recently received.
 - The project should be well documented. This information should be taken into account to ensure a best practice is created when redesigning the systems and processes to be followed in future.
- ***Regular updates to the Minister and National Commissioner on progress***
The Steering Committee should regularly update the Minister and National Commissioner on progress.

8.2 Management changes

The current management neither recognized the seriousness of the problem nor has shown a readiness to adapt its structures and procedures to address the problem. In this context it may not be possible for the department to embark on any turnaround strategy under the current management of the CFR. While the management does have knowledge of the FCA this knowledge is centralized in a few individuals and does not necessarily

- A public announcement on the outcome of the assessment and the intention to appoint an intervention team to address the backlogs (without committing ourselves to actual timelines).
- An announcement of a change in Management at the CFR if this recommendation is approved by the National Commissioner.
- A public announcement on the gazetting of regulations once these are finalized.
- Regular public announcements by the Minister and National Commissioner.
- A forum chaired by the Civilian Secretariat for Police to engage stakeholders and role players in the implementation of the FCA.

8.4 Redesign of the Firearms Registry's systems (IT as well as operational), processes and administrative functions.

In the longer term there would be a need to implement a turnaround strategy that redesigns the CFR systems, structures and processes and aligns them to the FCA. This strategy would need to run parallel to the Intervention and ensure that in future challenges around the implementation of the FCA do not re-occur.

The ultimate goal of the turnaround strategy should be to have the firearm's registration process redesigned. It is recommended that Steering Committee responsible for the urgent intervention be responsible for project managing this turnaround strategy.

It is further recommended that a firm of private sector consultants with experience in successful turnaround strategies in government departments be contracted to lead this intervention. The level of their commitment will depend on available funding. It is however important to work with such consultants as to bring added value through the best practices (local and international) and previous experience working with government departments they have gained. One way of financing this is to request additional funds from National Treasury based on the income it receives from the licensing fees paid from firearms applications (R42.9 million last year).

Once the processes have been redesigned, a process of on the job training follows under the supervision of mentors to ensure the newly developed

8.5 Development of longer term Policy, strategy and implementation plan

Given the dysfunctional nature of the Policy and Legislative unit in the CFR the Civilian Secretariat for Police and representatives from the National Commissioner's offices should engage in a process to develop a longer term policy and strategy regarding firearm which should include any future amendments to the FCA. This policy and strategy would need to be made available to the Minister in the first quarter of 2011.

8.6 Legal cases

There needs to be strict monitoring by the Civilian Secretariat and National Commissioner's office of legal challenges related to the FCA. The CFR should compile a monthly summary of cases in this regard and report on the status of such cases. The National Commissioner's office and Civilian Secretariat also need to be immediately informed on any legal cases that challenge the validity of the FCA.