



FIREARMS CONTROL BRIEFING

ARE GUNS EFFECTIVE FOR SELF-DEFENCE? EXAMINING THE EVIDENCE

INTRODUCTION: RISING VIOLENT CRIME AND FEAR IN SOUTH AFRICA

South Africa's latest crime statistics show that serious and violent crimes have again increased: Between 2011/12 and 2017/18, murder increased 31%, attempted murder 24% and aggravated robbery 37%; a shocking 41.3% of murders and 59.5% of aggravated robberies in 2017/18 were gun-related.¹

The perception of increasing levels of violent crime and easy access to weapons has seen South Africa's ranking drop from 123 to 125 out of 163 countries assessed in the 2018 Global Peace Index.²

People living in South Africa are scared: A StatsSA Victims of Crime Survey (VOCS) found that people fear being attacked in their homes and neighbourhoods, with one-third of households surveyed not going to open spaces or parks for fear of crime and just less than a quarter preventing children from playing outside for the same reason.³ At the same time, people's satisfaction with the police has been steadily declining – from 64.2% in 2011 to 57.3% in 2016/17.⁴

As such, people are looking for ways to protect themselves, their families and their possessions. One way for some is to buy a gun for self-defence.

GUN OWNERSHIP AND USE IN SA

The majority of licensed gun owners in South Africa are older men who own a handgun for self-defence against 'stranger danger' armed criminals:

- 81% of legal gun owners are men.⁵
- Almost two-thirds of licensed gun owners are over the age of 50 (25% are between 51 and 60, 19% are between 61 and 70, 11% are between 71 and 80 and 9% are older than 81 years of age).⁶
- 49% of legally owned guns are handguns (pistols or revolvers).⁷
- The majority of legally owned handguns are licensed for self-defence purposes.⁸

In contrast, the majority of perpetrators and victims of gun-related crimes in South Africa are young men who shoot and/or are shot with a handgun during an interpersonal argument with someone they know:

- 56% of those accused of murder using a firearm are between 12 and 24 years of age⁹ and 45% of murder victims (irrespective of weapon used) are aged between 15-29 years.¹⁰

¹ South African Police Service annual crime statistics, available online at www.saps.gov.za. The most recent national crime statistics (2017/18) show that murder increased 31% between 2011/12 and 2017/18 (15,554 to 20,336), attempted murder 24% (14,370 to 18,233) and aggravated robbery 37% (100,769 to 138,364).

² Institute for Economics & Peace. Global Peace Index 2018: Measuring Peace in a Complex World, Sydney, June 2018. Available from: <http://visionofhumanity.org/reports> (accessed 25 September 2018).

³ Statistics South Africa. 2017. Victims of Crime Survey 2015/16, p.2. Available online at www.statssa.gov.za (accessed 24 February 2017).

⁴ Statistics South Africa. 2018. Victims of Crime Survey 2016/17, p.22. Available online at www.statssa.gov.za (accessed 25 September 2018).

⁵ Wits School of Governance Public Safety Programme. 2015. Analysis of the Firearms Control Act on Crime (1999 to 2014). University of the Witwatersrand.

⁶ Ibid.

⁷ Ibid.

⁸ Central Firearms Registry, South African Police Service, October 2014.

⁹ Wits School of Governance Public Safety Programme. 2015. Analysis of the Firearms Control Act on Crime (1999 to 2014). University of the Witwatersrand.

¹⁰ Matzopoulos, Richard. et al. 2015. Injury-related mortality in South Africa: a retrospective descriptive study of postmortem investigations. Bull World Health Organisation. Published online: 13 March 2015. 93: 303–313: <http://dx.doi.org/10.2471/BLT.14.145771>



- 85% of murder victims are male.¹¹
- Between 1999/2000 and 2013/14, handguns were used in 94% of murders and 97% of aggravated robberies in which a gun was used.¹²
- The majority of murders in South Africa result from arguments between people known to one another, with alcohol often present.¹³

These two phenomena and their relationship to each other – handguns bought by older men for self-defence against ‘stranger danger’ criminals and young men shooting other young men they know in interpersonal arguments – could mean that:

1. Either older men are shooting and killing younger men in self-defence. This seems implausible given 1) the high number of victims – on average 23 people are killed by gunshot every day in SA¹⁴; 2) the profile of killings in South Africa – people are more likely to be killed in interpersonal arguments than crime; and 3) the age of the perpetrators – just 18% of those accused of gun-related murder are 36+ years.¹⁵
2. Alternatively, younger men are shooting one another with guns originally purchased by older men. This raises two further questions: are older men deliberately supplying younger men with guns or is it simply that older men are poor custodians of the guns they have purchased as protection from stranger danger; in other words are guns bought for self-defence effective for this purpose?

This briefing explores this phenomenon in more detail.

GUNS FOR SELF-DEFENCE

Research internationally and in South Africa shows that while having a gun may make you feel safer, it doesn’t make you safer:

1. Guns are highly prized items and are targeted by criminals who cannot acquire guns legally: Civilians in South Africa reported the loss or theft of 8,948 guns in 2016/17, which is an average of 25 guns every day (the police lost an average of 2 guns a day in this time).¹⁶ Between 2004/05 and 2014/15, 95% of civilian gun losses were reported to the police as ‘stolen’.¹⁷ While this figure is likely an overestimate (as gun owners who have lost a firearm through negligence may not report this to the police for fear of prosecution) the evidence shows that the majority of legal guns that are leaked from the legal into the illegal pool are deliberately targeted by criminals.
2. Guns are very rarely used in self-defence against a criminal attack.¹⁸ This is because criminals choose the time and place of attack very carefully, making sure their victim is vulnerable and outnumbered, to increase the success of a crime.

¹¹ Ibid.

¹² Wits School of Governance Public Safety Programme. 2015. Analysis of the Firearms Control Act on Crime (1999 to 2014). University of the Witwatersrand.

¹³ South African Police Service. Annual Crime Report 2015/2016: Addendum to the SAPS Annual Report.

¹⁴ Figure based on South African Police Service crime statistics for 2017/2018.

¹⁵ Wits School of Governance Public Safety Programme. 2015. Analysis of the Firearms Control Act on Crime (1999 to 2014). University of the Witwatersrand.

¹⁶ South African Police Service 2016/2017 Annual Report.

¹⁷ Wits School of Governance Public Safety Programme. 2015. Analysis of the Firearms Control Act on Crime (1999 to 2014). University of the Witwatersrand.

¹⁸ See: 1) Hemenway, David. et al. The epidemiology of self-defense gun use: Evidence from the National Crime Victimization Surveys 2007–2011. *Preventive Medicine*, Volume 79, October 2015, pp. 22-27: This USA study shows that self-defence gun use occurs in fewer than 1% of contact crimes. 2) Violence Policy Centre. 2016. Firearm Justifiable Homicides and Non-Fatal Self-Defense Gun Use: An Analysis of Federal Bureau of Investigation and National Crime Victimization Survey Data. Available online at <http://www.vpc.org/studies/justifiable16.pdf>: This USA study based on FBI data shows that guns are very effective for attack but very bad for defence: For every incident that a gun was used to kill someone justifiably in self-defence, there were 32 gun-related criminal murders. In addition, a significant percentage (27%) of the people killed justifiably were known to the shooter.



3. A gun in the home is more likely to be used to commit murder, suicide or to threaten and intimidate someone known to the shooter e.g. an acquaintance, friend or family member including a spouse, than to successfully protect against an intruder.¹⁹
4. You are four to six times more likely to have your gun used against you than to use it in self-defence.²⁰
5. If you shoot your gun at armed criminals they will shoot back 100% of the time, putting your life and the lives of bystanders at risk.²¹

In summary: **Choosing to buy a gun for self-defence arms criminals and endangers yourself and your family.**

WHAT THE EXPERTS ADVISE

According to Rob Dale, Managing Executive Director of private security company ADT, the only time a firearm will be effective for self-defence is if a gun owner is ready and waiting for the criminal/s with his gun cocked and the hammer back, which is highly unlikely as, “unfortunately these things don’t come with warnings, you’re not given 90 seconds to get to the safe to get (your gun) out and if you’re a responsible gun owner that’s where it would be (especially) if you have children.”²²

Instead of resisting a criminal attack, experts advise not fighting back, as your life is more important than your possessions.²³

- In the case of a hijacking, the Automobile Association of South Africa notes that hijackers want to get your car as quickly as possible and that gratuitous violence often happens when there is resistance, “for this reason we advise people to just comply and do whatever the hijackers want you to do,” while always keeping your hands visible so the hijackers know you are not armed.²⁴
- Similarly, in a home invasion the advice is to stay calm, speak slowly, avoid any swift movement and “keep your hands in sight so that the intruders do not become nervous or think you are attempting to wield a hidden weapon...Fighting back raises the risk of injury, but if you co-operate with their requests it’s far less likely that you or your family will be harmed.”²⁵

In further mitigation of buying or using a gun for self-defence, experts warn that South Africa’s criminal law allows for the use of force in very specific circumstances. As such, the courts will take into account a range of factors when deciding whether an act of self-defence is legal, especially when lethal force (such as shooting a criminal dead) has been used.²⁶

¹⁹ Santaello-Tenorio, Julian, et al. 2016. What do we know about the Association between Firearm Legislation and Firearm-related Injuries? *Epidemiologic Reviews Journal*. Vol. 8, pp. 140–157. Oxford University Press. van Kesteren, John. 2014. Revisiting the Gun Ownership and Violence Link: A Multilevel Analysis of Victimization Survey Data. *British Journal of Criminology*. Vol. 54, pp. 53-72. Anglemyer, Andrew et al. 2014. The Accessibility of Firearms and Risk for Suicide and Homicide Victimization Among Household Members: A Systematic Review and Meta-analysis. *Annals of Internal Medicine*. Vol. 160, pp. 101-110. Hemenway, David. 2011. Risks and Benefits of a Gun in the Home. *American Journal of Lifestyle Medicine*. Vol. 5, pp. 502-511, available online at <http://ajl.sagepub.com/content/early/2011/02/01/1559827610396294> (accessed 10 August 2016), which summarises the scientific literature on the health risks and benefits of having a gun in the home for the gun owner and his/her family, concluding that, “The evidence is overwhelming for the fact that a gun in the home is a risk factor...”

²⁰ Altbeker, Antony. 1999. *Guns and Public Safety: Gun crime in Alexandra and Bramley*. GFSA. Hemenway, David, et al. The epidemiology of self-defense gun use: Evidence from the National Crime Victimization Surveys 2007–2011. *Preventive Medicine*, Volume 79, October 2015, pp. 22-27.

²¹ Altbeker, Antony. 1999. *Guns and Public Safety: Gun crime in Alexandra and Bramley*. GFSA.

²² Dale, Rob (Managing Executive of ADT Security). Interview on the Eusebius McKaiser Show, Talk Radio 702 and CapeTalk on 7 June 2018.

²³ Discussion between Rob Dale (Managing Executive of ADT Security), Layton Beard (Spokesperson for the Automobile Association) and Eusebius McKaiser on the Eusebius McKaiser Show, Talk Radio 702 and CapeTalk, 7 June 2018.

²⁴ Beard, Layton (Spokesperson for the Automobile Association). Interview on the Eusebius McKaiser Show, Talk Radio 702 and CapeTalk on 7 June 2018.

²⁵ 7 Safety tips to survive a home invasion, developed by Blue Security, available online at www.bluesecurity.co.za/7-safety-tips-to-survive-a-home-invasion/

²⁶ The issue of self-defence and rights was explored on investigative TV show *Carte Blanche* on 27 May 2018; see *Self-Defence and Your Rights*, available online at <https://m-net.dstv.com/show/carte-blanche/news/self-defence-and-your-rights/news> (accessed 25 September 2018).



SELF-DEFENCE AS A REASON FOR GUN OWNERSHIP

Globally

A review of 42 jurisdictions (28 countries, including South Africa, and 14 sub-national entities) to identify the diversity and common features of firearm control laws around the world shows that the majority (62%) do not recognise self-defence as a reason for gun ownership.

Some countries, such as Australia, New Zealand and the United Kingdom, explicitly prohibit owning a firearm for self-defence; others, such as Botswana, Canada, Germany and Japan make no provision for self-defensive gun ownership. These seven countries have some of the lowest levels of gun violence in the world, as shown in Table 1.

Legal status of gun ownership for self-defence	Explicitly prohibited			No provision made				Recognised
	Australia	New Zealand	United Kingdom	Botswana	Canada	Germany	Japan	South Africa
Number of gun-related homicides	42	8	23	51	156	57	4	8,300
Gun-related homicide rate per 100,000 population	0.18	0.18	0.04	2.98	0.45	0.05	0	14.5

Although the right to defend oneself against a physical threat is a universally recognised principle in all legal systems, provided that the threat is 'immediate' and the response is 'necessary' and 'proportionate', there is no universally recognised right to possess a firearm for self-defence. A report by the UN Special Rapporteur on Human Rights on the principle of self-defence under human rights law concludes that, though the principle of self-defence has an important place in international human rights law, "it does not provide an independent, legal supervening right to small arms possession, nor does it ameliorate the duty of States to use due diligence in regulating civilian possession."²⁸

South Africa

In line with this global norm, South Africa does not recognise gun ownership for self-defence as a right. In 2018 the Constitutional Court of South Africa affirmed this, ruling that gun ownership is not a fundamental right under our Bill of Rights, rather it is a privilege regulated by the Firearms Control Act (FCA).²⁹

Despite the well documented and globally recognised ineffectiveness of guns for self-defence, hence it being a global norm, the FCA makes provision for two categories of firearm licence for self-defence:

- Section 13 allows an individual to own one firearm for self-defence, either a handgun or shotgun.
- Section 14 allows an individual to own one restricted firearm for self-defence – either a semi-automatic rifle or shotgun or any other firearm declared to be restricted by the Minister of Police; special motivation is needed for a restricted self-defence firearm licence.

²⁷ Data sourced from Gun Policy: Find Gun Policy Facts see www.gunpolicy.org; data for South Africa sourced from South African Police Service 2017/18 annual crime statistics, available online at www.saps.gov.za.

²⁸ UNHRC (United Nations Human Rights Council). 2006. Prevention of Human Rights Violations Committed with Small Arms and Light Weapons: Final Report Submitted by Barbara Frey, Special Rapporteur, in Accordance with Sub- Commission Resolution 2002/25. A/HRC/Sub.1/58/27 of 27 July, para. 19.

²⁹ Judge Froneman, Constitutional Court of South Africa. Case CCT 177/17 in the matter between the Minister of Safety and Security (Applicant) and South African Hunters and Game Conservation Association (Respondent) and Fidelity Security Services (PTY) Limited (First Amicus) and Gun Free South Africa (NPO) (Second Amicus). Unanimous judgment given on 7 June 2018.



IMPLICATIONS AND RECOMMENDATIONS

By implying that the state recognises self-defence as a genuine reason for gun ownership, the FCA both contradicts South Africa's Constitution and Bill of Rights and opens the way for gun owners to argue a right to gun ownership for self-defence under the law. This contradiction is even more incongruous following the 2018 Constitutional Court ruling, which seeks to assert the primacy of the Constitution in matters of safety in South Africa.

Any amendment to the FCA needs to seriously take into account these contradictions and implications as well as documented data showing that:

- guns are not effective for self-defence, contributing instead to a domestic arms race; and
- handguns are overwhelmingly the weapon of choice to commit gun-related crime in SA.

This entails a careful interrogation of those sections of the FCA dealing with who can own what weapons for which purpose and includes restricting the type, calibre and number of firearms that an individual may own with strict limitations on handguns due to their disproportionate use in gun-related crime.