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Implementation of the firearms control policy in the management of firearms of deceased persons

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IMPLEMENTATION OF THE FIREARMS CONTROL POLICY IN THE MANAGEMENT OF FIREARMS OF DECEASED PERSONS

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A Research Report submitted to the Faculty of Commerce, Law and Management, University of the Witwatersrand, in partial fulfilment of the requirements of the degree of Master of Management (in the field of Security)

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ABSTRACT

This study is about the challenges inherent in the implementation of the firearms control policy in the management and control of Estate Firearms. The interest in the phenomenon emerged in the midst of the recently developed new Firearms Control Act, 2000 (Act No. 60 of 2000).

Amongst other things, this policy sought to facilitate the prevention of the proliferation of firearms that in most instances eventually become available for the commission of violent crimes. Despite this development, a gap has been identified that firearms owned and left by deceased persons are not properly managed and controlled. In order to unravel the challenges the South African Police Service is confronted with in implementing the firearms control policy the study resorted to using the qualitative. An interpretive approach blended with descriptive study was used in order to generate deeper understanding of issues investigated.

The research environments were the South African Police Service, the Department of Home Affairs and the Department of Justice & Constitutional Development within the Master of the High Court: South Gauteng.

The research established that although some measures were put in place to implement the firearms control policy, there still are many challenges such as: monitoring and evaluation, poor management of systems, insufficient outreach and awareness rousing and the lack of enforcement by all the role players as identified in the study. A Inter-Agency Co-creation Model is also proposed as a means to consolidate suggestions that were presented by respondents. Further research is recommended into:

- A quantitative study be done on the same topic.
- The management of the EFRS and its impact on the implementation of the Firearms Control Policy.

DECLARATION

I declare that this report is my own, unaided work. It is submitted in partial fulfilment of the requirements for the degree of Master of Management (in the field of Security) in the University of Witwatersrand, Johannesburg. It has not been submitted before for any degree or examination in any other University.

.....

Lucky Joseph Mabule

DEDICATION

I dedicate this work to the body of knowledge in the policy discourse and hope to add value in the ensuing debate.

I dedicate this work to “Lihoja”. May this ignite their learning appetite so they can lay claim to a place among renowned men and women.

I dedicate this work to my wife, Mmapudi, son, Mohapi and daughters, Limpho and Nthati, for their support and understanding during the days and nights including making the resources available.

Honour and Glory be to the Almighty

Amen.

ACKNOWLEDGEMENTS

I acknowledge the Source of my Inspiration and Endurance...

I acknowledge the respondents from the SAPS and the office of the Master of the High Court, Gauteng South for allowing me to conduct the study in their respective environments and also making the information available.

I acknowledge the role played by Dr Johnny Matshabaphala as my supervisor through the research journey. It has been a really challenging and exciting experience.

I suppose I should rest now!

ACRONYMS

AAA	-	Arms and Ammunition Act, 1969 (Act No. 75 of 1969)
AEA	-	Administration of Estates Act, 1965 (Act No. 66 of 1965)
BDRA	-	The Births and Deaths Registration Act, 1992
BGOA	-	Black Gun Owners Association SA
CFCR	-	Central Firearms Control Register
DCS	-	Department of Correctional Services
DFO	-	Designated Firearms Officer
DHA	-	Department of Home Affairs
DP	-	Deceased Persons
EF	-	Estate Firearms: Firearms of Deceased Persons
EPS	-	Enabled Police Stations
EFRS	-	Enhanced Firearms Registration System
FCA	-	Firearms Control Act, 2000 (Act No. 60 of 2000)
FRC	-	Firearms Registration Centre
FRS	-	Firearms Register System
GFSA	-	Gun-Free South Africa
MHC	-	Master of the High Court
SANDF	-	South African National Defence Force
SAGA	-	South African Gun Owners Association
SAHGCA	-	South African Hunters & Game Conservation Association
SAPS	-	South African Police Service
SITA	-	State Information Technology Agency

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CHAPTER ONE: INTRODUCTION

1.1 Introduction

In the past three financial years the SAPS has recorded a relatively stable crime rate in relation to violent crime. Even though the statistics have remained stable at 14% as recorded in the SAPS Strategic Plan 2010/2011, the public outcry on their safety is never diminishing. The element of violence seems to be a prominent feature during the commission of crimes. Traditionally, violence would only be used in instances where resistance was likely to be experienced and this was not the case with vulnerable groups such as women and children. Even though it was not unexpected, still it is surprising and without precedent and these vulnerable groups have become victims of violent crime. This phenomenon is not a South African problem only as many other countries around the world are being affected by violent crime perpetuated by the use of firearms. In December 2012, the Americans were taken aback by an indiscriminate shooting at Sandy Hook Elementary School by a gun man who ran amok. In responding to this the US president, Mr Obama outlined a series of steps both political and administrative he claimed, would limit access to guns.

Violent crime can be distinguished from ordinary crime in that in the former instance crime is accompanied by violence. This violence is either imminent or actual and normally carried out by using a tool of some kind. In its 2009/2010 Annual Plan the SAPS has recorded that almost all violent crimes in South Africa were and still are committed through the use of a firearm(s).

Many anti-gun lobbyists such as the Gun Free South Africa have lamented the free access to firearms by both law-abiding citizens and criminals. The loss of licensed firearms and the growth of an illegal pool of firearms have been blamed for violent crimes in this country; (Hansmann and Hennop 1999). The Central Firearms Control Register, the component of the SAPS that is responsible for administering the Firearms Control Act, 2000 (Act no. 60 of 2000) has no integrity management of a database of lost firearms, according to an assessment made in the Small Arms and Security in Southern Africa,

(1998). This view is supported by Hansmann and Hennop (1999) with their research that discovered that the South African Police Service was less than 30% accurate in the capturing of lost firearms. This should be a concern to the South African Police Service as the instrument meant to assist in managing and controlling firearms is not credible and cannot be relied upon. This deficiency in the systems and processes of controlling firearms negates the noble intention of the firearms control policy. Perhaps this indicates the underlying challenges in the implementation of the policy and which require some scrutiny.

The circumstances surrounding the loss report varies, from robbery/theft to those misplaced. However it is seldom that a report like the latter one is made because of the possibility of being charged with negligent loss of a firearm. Therefore many cases are reported as either stolen/lost or robbed. This reporting is normally made by the licensed owners. In the event of loss of a firearm belonging to the deceased person, the issue of reporting such a loss becomes a challenge. This is further exacerbated by the long and ambiguous overlapping responsibility between the SAPS and the Master of the High Court. This state of affairs is of grave concern as such firearms are more often than not accounted for. There is an anomaly in the control (reporting of death and eventual process of winding up of deceased's estates) Estate Firearms, which has not received attention and is likely to have serious security threats.

This study will look into the challenges inherent in the implementation of the firearms control policy and how the control of Estate Firearms is being managed by the SAPS as well as the Department of Justice and Constitutional Development. The latter department administers the Administration of Estates Act, 1965 (Act No. 66 of 1965) while the former, administer the Firearms Control Act, 2000 (Act No. 60 of 2000).

Hanekom (1987:7), as quoted in Cloete, Wissink and de Coning (2007:14), defines "public policy as a formally articulated goal that the legislature intends pursuing with society or with a societal group". Different authors apply different approaches towards policy development processes which eventually translate into legislation or vice versa. This statement lend credence to understanding Howlett's (2011) view on the policy cycle in his postulation that among others a policy should prescribe the course of action

alongside the set of sanctions to penalize those who fail to comply with it. These policies are in essence applied by the courts and the bureaucracy.

Kilpatrick (2000:1) defines public policy as a "system of laws, regulatory measures, courses of action, and funding priorities concerning a given topic promulgated by a government entity or its representatives". He is furthermore of the view that public policy debates are occurring over proposed legislation and funding.

In this study policy and legislation will be used interchangeably simply because each is an integral part of another.

1.2 Background to the Study

"Gun control legislation is a common policy initiative following highly publicised murders or assassination or attempts on prominent figures. The Federal Gun Control Act of 1968 was a response to the assassinations of Senator Robert. F. Kennedy and Martin Luther King jnr. In that year efforts to legislate additional restrictions occurred after attempts to assassinate Presidents Gerald Ford and Ronald Regan. The rationale for restricting gun purchases, licensing gun owners or banning guns altogether is that fewer crimes would be committed with guns if guns were less readily available". (Dye, 2002:70).

There is a global view that firearms have been, and still are, considered the primary cause of violent crimes the world over. What Dye is illustrating is that easy access to firearms enhances the commission of crimes. This is a long standing problem and it was not surprising that the UN sought to put in place measures to attend to the issue of firearms and violence. In response to the problem and also in compliance to the UN mandate, SADC became a signatory to various regional and international agreements which includes:

- "to prevent, combat, and eradicate the illicit manufacturing of firearms, ammunition, and other related materials, and their excessive and destabilizing accumulation, trafficking, possession, and use in the region;
- to promote and facilitate co-operation and exchange of information and experience; and to co-operate closely at the regional and international levels.

- For these purposes, states agree to take various measures: laws and regulations on the manufacture, transfer, possession, and use of firearms; regulation of arms brokers; enhancing the operational capacity of police, customs, border guards, the military, the judiciary, and other relevant government agencies to fulfil their roles in implementing the Protocol; control over state and civilian-owned firearms; harmonization of import and export documents and end-use certificates; marking and record-keeping; disposal of state-owned, confiscated, or unlicensed firearms; voluntary surrender of firearms; public education and awareness programmes; mutual legal assistance; law enforcement; and transparency and information exchange". (McDonald and Cattaneo 2003:238).

South Africa as a member state to the UN and SADC had to comply with these bodies' agreements. In fact South Africa became the first country in Southern Africa to comply with these requirements, Parker (2011). South Africa's swift response could be attributed to a number of reasons including the fact that it had just been readmitted to the international arena and that many of its policies under Apartheid were offensive to the region. This was a politically expedient move to legitimise itself to its neighbours who had been the victims of the apartheid government.

As early as 1996 the new government became overwhelmed with societal issues like crime and many policies had to be revisited in order to respond to the public outcry. Many voices such as those of Hansmann and Hennop were also heard calling for a revised policy on firearms as a response to violent crimes. Subsequent to these calls, a ministerial committee under the chairpersonship of Dr B Fanaroff was appointed to look into the then Arms and Ammunition Act, 1969 (Act No. 75 of 1969) in order to address the issue of firearms which were considered the primary enhancers of violent crime. Among others, the committee recommended that the police should focus more on controlling firearms and not only issue licences to possess same. This meant that firearm licences holders should be competent to handle and use firearms before a licence could be issued to them. The other new provision recommended was that licence holders should renew their licences after every five years as a means of monitoring their competency.

In 2004 the SAPS implemented the Firearms Control Act, 2000 (Act No. 60 of 2000) and this was mainly to control firearms from the manufacturing stage up to the destruction or loss report.

Since the FCA came into operation the situation has not changed much as the public is still concern about the high incidences of violent crime. In the same breath organisations like South African Hunters and Conservation Association and South African Gun Owners Association have taken the SAPS to court claiming that some of the provisions of the FCA are not implementable as it was impossible to comply with the conditions. These protests have practically stalled the implementation of this policy in controlling firearms as initially contemplated.

The process of renewal of firearm licences would have assisted the police in controlling firearms particularly Estate Firearms. This would have provided a benchmark for the police to start tracing those who did not submit applications to renew their current licences. As things stand, it is not known whether those who did not submit applications to renew their licences did not do so because they are waiting for the outcome of the court process or have died.

The Central Firearms Control Register (CFCR) applies the Enhanced Firearms Registration System (EFRS) to keep record of all registered and licensed firearms. This system is according to the TMS Manager linked to the Department of Home Affairs (DHA) that keeps records of deceased persons. Through this linkage the Central Firearms Control Register should be able to know when and if someone who owns a firearm has died. However, the current practice is that the DFO can only know of the death of someone who owns a firearm(s) if there is an enquiry about the person's firearm or when death has been reported by the next of kin. This means that should neither one nor the other means be invoked then the SAPS would not know of such death and consequently the whereabouts of the relevant firearm(s).

Despite the bold effort by the South African government to control firearms in South Africa, there seems to be a grey area that is not receiving the necessary attention. This is the firearms legally acquired but left behind by deceased persons. It seems the SAPS find it difficult to control such firearms and it is not known what eventually happen to them. It is a rational argument that such firearms are likely to end into the pool of illegal firearms.

Estate Firearms had always posed challenges when it comes to the management of their disposal. Even in the new legislative dispensation this challenge was anticipated hence it was put forward as a recommendation that firearms belonging to deceased' persons should receive priority.

Notwithstanding these challenges a strong legislative framework is paramount. However it is also true as pointed out by Parker (2011), that strong legislation alone will only have a limited impact should there be a lack of capacity in other areas such as compliance enforcement. Compliance and enforcement are common challenges to many policy implementations.

1.3 Historical Legislative Framework and the Evolution of the Firearms Environment

During its transition, South Africa was faced with many challenges, in particular the abundance of firearms that were scattered all over the country. This could be partly apportioned to the bloody conflict that preceded the peace talks where different groupings armed themselves. After all else had come to a stop the government had to address the problem of firearms in the country, a development captured in the Review of the Ministerial Policy to Control Firearms and Ammunition in South Africa (1999). Fortunately for South Africa, this challenge emerged at the time when the world was also concerned with the abundance of small arms and light weapons. A report on Small Arms and Security in Southern Africa recorded that bodies such as the UN had just begun developing treaties and protocols that sought to control firearms and that countries that were member states had to undertake to revisit their domestic firearms control policies. South Africa as a member to the UN was also bound to undertake the same exercise hence the Firearms Control Act, 2000 (Act No. 60 of 2000) was developed.

The FCA was considered a watershed development in the administration of firearms as this policy was supposed to control firearms as opposed to its predecessor the Arms and Ammunition Act, 1969 whose main focus was just on processing applications for

firearms and capturing the loss of such firearms when they got reported as such. The purpose of the FCA is outlined as:

- To enhance the constitutional rights of individual citizens against unlawful injury to their persons,
- To prohibit the proliferation of firearms,
- To enhance the combating and investigation of firearm related crimes,
- To enhance the control of firearms in South Africa.

The control of firearms particularly those owned by deceased's persons will go a long way in making sure that they do not end up in the pool of illegal firearms eventually. By extension, the other objective of the policy which is to prohibit the proliferation of firearms will also be realised.

In a broad overview this policy was meant to control firearms. This means controlling the manufacturing, marking, exporting and importing, purchasing and transporting, licensing, loss reporting and destruction of firearms.

Of the whole process of controlling firearms it is the loss reporting or the management of the firearms owned by deceased's persons that this study seeks to research.

Recommendation 25 of the Committee suggested the following procedure in dealing with deceased' persons firearm/s:

"in case of the death of a licensed firearm owner, the firearm must be disposed of in accordance with regulation 19 of the current Act, which should be amended to include disposal of the firearm within 60 days (or such longer period as the Registrar may allow) of the completion of the execution of the estate. If, after 60 days of the completion of the estate of the deceased, this is not undertaken, the firearm should be forfeited to the state. An individual who wishes to retain possession of a licensed firearm on the death of the owner must place the firearm at a dealer for safe storage while he applies for competency and possession licence as per the procedures (indicated in recommendation 7). Should the individual fail to obtain the licence required, the procedures for disposal of the firearm remain as indicated in recommendation 19".

(Review of the Ministerial Policy to Control Firearms and Ammunition in South Africa 1999)

This approach could have been the most effective and swift one in disposing of such firearms had it been adopted. There is a notable departure from the above recommendation that is contained in section 103 of the Firearms Control Regulations, 2004. The deviation is justifiable in that it also considers other legislation such as the

Administration of Estate Act, 1968 (Act No. 65 of 1968) which was disregarded in the draft policy. In spite of this harmonisation exercise in the development of a firearms control policy, the dual regulation between the South African Police Service (SAPS) and the Department of Justice and Constitutional Development (DJ&CD) seems to be a challenge in the implementation process. The culmination of all policy development and/or review efforts is the implementation thereof. This phase naturally involves a lot of planning, structuring and resources allocation. The following discussion looks at the strategies and models that were applied in the implementation of the firearms control policy.

1.4 Implementation Strategies and Models

A policy review on firearms recommended that a national Implementation Strategy be developed in close co-operation with all relevant State Departments and agencies which will make provision for human and other resources to enable successful and smooth implementation of the FCA.

The nature and scope of the FCA was to cut across and overlap into domains resorting under other State Departments. The focus of this study is on firearms owned by deceased's persons whose deaths would be reported with Department of Home Affairs. Furthermore should a firearm constitute the deceased estate, and then the Master of the High Court also comes into the picture. It was therefore of paramount importance that a multidimensional approach be adopted by the SAPS in drafting its implementation strategies. The importance of other role players cannot be overemphasised as it is an inevitable reality that all entities cannot operate in silos. It therefore would have been prudent for the SAPS to take into account the recommendations of the Draft Policy Review on Firearms in drafting any of its strategies meant to give effect to the firearms control policy.

On March 7, 2001 the SAPS team did a presentation to the Select Committee on Security and Constitutional Affairs on the Firearms Control Bill and the Budget that was going to be applicable for the implementation thereof. Explaining the implementation strategy the

then Head of CFCR Director Bothma (2001) explained that the basis of such a strategy rested on four pillars, namely:

- Legislation;
- Capacity building;
- Operational Administration Initiatives; and,
- Communication and Awareness Campaigns.

As this study is more focused on the "after-the-fact," only capacity building and administration will be relevant in this regard. In the main, capacity building was to look at what Director Bothma termed Business Process Re-Engineering (BPR)- Firearms Control System. The scope of the BPR was to design a detailed firearm control business, information and technology architecture. What is also of interest is that this project was mainly to cater for the needs of the FCA, the relevant regulations, policies and internal governance. Ultimately, a linkage with systems within other Departments was also supposed to be enhanced.

Another aspect of capacity building was about the model adopted for the implementation of the FCA which, according Bothma's presentation to the Committee, was "a designated firearms official model…" developed for the SAPS. The structures contained in this model provide for capacity at three different levels within the SAPS, namely, station, area and provincial levels".

The Designated Firearms Officials (DFO's) are in actual fact police officials appointed to oversee and implement the FCA. That they are referred to as a model if looked in the foregoing context is rather puzzling. According to a work study report conducted in 2005 by the Crime Prevention Division (now known as Division Visible Policing) at the Head Office of the SAPS, the models that were proposed and eventually implemented were the Firearms Registration Centre (FRC) as well as the Enabled Police Station (EPS). The former model was introduced in the province of Gauteng as a project while the latter one was introduced in all other provinces.

In 2009 Gauteng province was placed under the new management. It was under the new tenure that the province immediately adopted the EPS model and the FRC model is now defunct.

The FCA was not going to be a cheap exercise. Bothma's (2001) presentation indicated that an amount of 217 million rand was allocated for the implementation of the FCA which was spread over a period of three years starting from the year 2000.

It is not clear where these funds came from, whether the SAPS had budgeted for them or not. Perhaps Dr BL Geldenhuys from the now defunct New National Party also had similar question in mind when he asked during the same presentation, "whether the SAPS received foreign aid in 2000; if so -

(a) from which countries,

(b) what was the total of each country's contribution,

(c) what was the total amount in foreign aid received by the SAPS in that year,

(d) how was the money utilised and

(e) according to what criteria was the money distributed"?

The SAPS answered in the affirmative and stated that the total foreign aid received for the year 2000 was 253 million rand (R 253M) and this was allocated to various projects within the SAPS. Interestingly, the FCA was never mentioned as one of the projects that were meant to benefit from the foreign aid.

As part of the implementation strategy, the Enhanced Firearms Registration System which was born out of the BPR project was introduced to facilitate the processing of the applications and to enhance management and control of firearms registered on the system. Data captured and maintained in this system has been a subject of debate for many years as its integrity is continually being questioned.

Systems are meant to support the implementation of strategies and policies and also to enhance decision making. If this objective is not realised then such a system should be revised or at least be evaluated to establish dysfunctions within it.

1.5 Problem Statement

The SAPS is the custodian of the firearms control policy in South Africa and is responsible for its implementation. This it does through the instrument of the Firearms Control Act, 2000 (Act No. 60 of 2000) which came into operation in 2004. The purpose

of this legislation is to control firearms right from the manufacturing stage up until the destruction or loss reporting. For the financial year 2010/ 2011 the State Information Technology Agency (SITA) reported 1653 losses of firearms. These reports were captured through the Enhanced Firearms Registration System which can be accessed from police station level. These losses are normally reported by legal owners of such firearms. Firearms whose whereabouts are unknown and their legal owners cannot account for them are neither reported as lost nor stolen. There are a number of factors contributing to the current state of affairs. Many legal firearms owners die and their firearms are unaccounted for and it is not known what eventually happens to them. This situation was notably captured in Bothma's (2001) presentation when he conceded that;

"a number of firearms which are licensed in the names of deceased's persons are currently in circulation in South Africa. There is a great uncertainty within communities regarding the procedure to be followed to licence these firearms. Persons in possession of these firearms are afraid to produce them for fear of prosecution. An awareness campaign will be launched internally and externally to ensure that these firearms are officially licensed or alternatively destroyed."

The management and control of Estate Firearms (EF) has apparently not improved since the new firearms control policy came into operation. The challenges that the SAPS is faced with in managing and controlling Estate Firearms (EF) are not known. In attempting to identify and understand the challenges the study will cover the following areas: the head office of the SAPS in Pretoria as well as within five provinces of Gauteng, Kwa-Zulu Natal, Free State, Mpumalanga and Eastern Cape. Also included, will be the office of the Master of the High Court which administers the Administration of the Estate Act, 1965 (Act No. 66 of 1965) (Act No. 66 of 1965). The scope of the study will focus on the current practices in the implementation of the Firearms Control Act, 2000 (Act No. 60 of 2000) and the subsequent administration of firearms as deceased's estate. This study will identify the challenges that negate the efficient implementation of the firearms control policy in managing the Estate Firearms (EF) and suggest alternative ways to improve the current situation. Earlier studies on a similar topic by Machethe (2011) had used a combination of theories, namely system theory and classical management theory. The rationale was simply because of the complex nature of the policy implementation

environment. This study will follow the same approach of a combination of stated theories as the conceptual framework.

1.6 Purpose Statement

The purpose of this study will be to investigate the challenges inherent in the implementation of the firearms control policy in the management and control of firearms left behind by deceased persons. This study will identify the challenges that negate the efficient implementation of the firearms control policy in managing firearms left by deceased' persons and make policy recommendations to improve the possible impasse.

1.7 Research Questions

This study sought to find answers to the following questions:

- What are the inherent challenges to the implementation of the firearms control policy?
- What are the mechanisms available for the implementation of the firearms control policy?

1.8 Significance of the Study

A lot of research has been done with regard to the control of firearms globally and here at home. These studies had concentrated on issues such as stock piling of firearms particularly (small arms and light weapons) by individuals, security companies and state departments. The SAPS is the sole regulator of firearms in South Africa. However once such firearms become part of the deceased estate, the Department of Justice and Constitutional Development (DJ&CD) comes into the picture as the co-regulator. With this dual regulation and the absence of inter-departmental co-operation, firearms left by deceased persons often get misplaced, lost and/or stolen and are eventually unaccounted for. The significance of this study will be to contribute towards better policy articulation

with regard to the management and control of the deceased's firearms and also to propose better co-operation between different regulators.

1.9 Limitations

Neuman (2011) identifies time, costs, access to resources, approval by authorities and expertise as some of the major limitations. In order to overcome these challenges the researcher applied and fortunately permission was granted to conduct research within the SAPS and the DJ&CD. The researcher is in the employ of the SAPS and the research was considered as having been sanctioned by the department. It was therefore not difficult to access respondents except one from the Western Cape Province. Purposive sampling was also used for the second set of interviews. The interviews were done during working hours with prior permission from the relevant Manager. Even though permission had been granted to conduct research within the SAPS it was not possible to get hold of the relevant persons as respondents from the CFCR because of the changes that took place. Even the senior managers were not readily available for the purpose of interviews.

1.10 Structure of the Report

This study is founded on six chapters as outlined hereafter.

Chapter One: Introduction

This chapter provides a brief background to the study, the research problem, the purpose of the research, the research questions and lastly the significance of the study.

Chapter Two: Literature Review

This chapter focuses on the relevant literature within the policy discourse, in particular the challenges around the implementation of the firearms control policy in the management of the Estate Firearms. The genesis of this chapter looks into the meaning of important concepts and then move on to navigate through the chosen topics in order to ground the research. The main topics that are being entertained are: Implementation of the Firearms Control Policy in the Management of the Estate Firearms and the Mechanisms

for the Management and Control of Estate Firearms. Through the discussion of these topics and data collected from respondents the study was able to establish common challenges inherent in the implementation of the firearms control policy.

Chapter Three: Research Methodology

This chapter provides a scheme of the research methodology as well as the research approach and design adopted in this study. The choice of the methodology applied was premised on the problem, purpose and the research questions. The chapter further discusses the data collection techniques and procedures used for the study and lastly provide the rationale for the choice.

Chapter Four: Data Presentation

This chapter presents primary as well as secondary data collected through interviews and documentary analyses respectively. The data presented was collected through the instrument of questions that were pre-set. The responses are presented verbatim and raw as they have been captured.

Chapter Five: Data Analyses

This chapter is an extension of the previous chapter. It analyses collected data by applying methods and techniques of data analysis. Through this exercise themes emerged, and the study was able to achieve its purpose as outlined in chapter one. Furthermore the study was able to make recommendations and suggest future research from such themes.

Chapter Six: Conclusions and Recommendations

This chapter makes conclusions on the basis of the findings from the data collected as they were informed by the issues raised in the research. It makes recommendations on the areas that are crucial for the successful implementation of the firearms control policy in the management and control of Estate Firearms. The recommendations are substantiated by the suggested “Inter-Agency Co-Creation Model”. Lastly recommendations are also made on areas that need further research.

1.11 Conclusion

This chapter moved from the premise of understanding of the global community of the phenomenon of crime, violence and firearms. The protocols and treaties developed at that level and how they manifested themselves into countries' policy frameworks was discussed in an attempt to locate the issue at hand. South Africa's position in relation to its response to the global and regional dictates was examined. This resulted in the firearms policy review which eventually resulted in the Firearms Control Act, 2000 (Act No. 60 of 2000) which is the subject of this study. Also the strategies that were designed to implement the Act were briefly looked at and how they have evolved in relation to the realisation of the objectives of the Act.

These discussions have assisted in identifying and locating the problem that this study investigated. This will enhance the purpose that has been constructed as well as the main questions asked.

CHAPTER TWO: LITERATURE REVIEW

2.1 Introduction

Neuman (2009:67) postulates that the literature review is based on the assumption that knowledge evolves with time and underpins future endeavours in the creation of new knowledge.

2.2 Definition of Concepts

2.2.1 Deceased estate

Section 1 of the Administration of Estates Act, 1965 (Act No. 66 of 1965) defines a deceased estate. This explains that a deceased estate comes into existence when a person dies and leaves property and/or a document that is a will or is intended as a will. The estate must then be administered and distributed, either in accordance with the deceased's will or, if the deceased did not leave a will, in accordance with the provisions of the law. Furthermore the Administration of Estates Act, 1965, prescribes the procedure to be followed for administering a deceased estate. Firearms forming part of the deceased estate will be referred to as Estate Firearms for the purpose of this study.

2.2.2 Firearms

Section 1 of the Firearms Control Act, 2000(Act No. 60 of 2000) defines a firearm as any:

a) Device manufactured or designed to propel a bullet or projectile through a barrel or cylinder by means of burning propellant, at a muzzle energy exceeding 8 joules (6 ft-lbs);
b) Device manufactured or designed to discharge rim-fire, centre-fire or pin-fire ammunition;

c) Device which is not at the time capable of discharging any bullet or projectile, but which can be readily altered to be a firearm within the meaning of paragraph (a) or (b);
d) Device manufactured to discharge a bullet or any other projectile of 22 calibre or higher at a muzzle energy of more than 8 joules by means of compressed gas and not by means of burning propellant or
e) Barrel, frame or receiver of a device referred to in paragraph (a), (b), (c) or (d), but does not include any device contemplated in section 5.

2.3 Implementation of the Firearms Control Policy in the Management of the Estates Firearms

2.3.1 Organizations and Political Support in the Implementation of Policy

Leadership and management are not synonyms and will not be used interchangeably in this study but rather one as an integral part of another. According to Achua and Lussier (2010) management involves four primary functions of planning, organizing, leading and controlling. Although a subset of management, leadership has in its own right assumed a theoretical framework. Because of the broad and dynamic nature of the concept of leadership, it will be used in the context of formal organisational setting such as the SAPS.

In a large organization like the SAPS leadership practise is rather a complex phenomenon which has taken a new dimension since the new political dispensation. Since the current government came into power the position of the national commissioner is the one of deployment of an individual who is a politician rather than career policeman/woman. This means having a political head both at ministerial and administrative levels.

The SAPS has also experienced a number of politically aligned individuals appointed at other levels of management. This is being done as part of the transformation of the organisation, so it is claimed. This development transformed the position of a commissioner from the one of a manager to that of political leader. This argument lends credence to the study especially when discussed in the light of what Achua and Lussier (2010) are advancing in that managers are persons with formal title and authority while

leaders means those who may either be managers or non-managers. In the context of policy and its implementation this kind of arrangement was supposed to work even better because politicians are also available at operational level.

However, this has its own shortcomings. South Africa is a young democracy and transforming an organisation for the sake of doing so holds future dangers. Should another political party become a government it is apparent that the organisation concerned must be transformed again as the incumbents would be representing the defeated party. This is contrary to the USA's political system and the voter tendency in voting. In light of the foregoing Greasly and John (2010) have observed that Democrats are conscious of giving political authority to one person for fear of abuse of office and the possibility of corruption. They also postulate that the policy making space should not be interrupted but rather cross-checking institutions be allowed to exercise their skills and competencies in constructing effective policies and the avoidance of errors.

The firearms control policy was developed during the tenure of the then Minister of Safety and Security, Steve Tshwete and the National Commissioner George Fivas. The development process overlapped into the tenure of Charles Ngcakula and Jacky Selebi. It was under the leadership of the latter that the policy came into operation. Ngcakula and Selebi were both politicians one as a minister while the other a national commissioner. Political support with regard to the implementation of this policy could be said to have been in abundance from both the minister and the national commissioner. This practice makes sense if viewed from what Andersen and Mortensen (2010) have observed in that politicians are making policy commitments in their public budgeting.

Structures and strategies were designed and resources made available for the purpose of implementing the firearms control policy. The budget that was allocated for this purpose was about 217 million rand presumably from the SAPS budget. However it cannot be ruled out that additional funds were sourced from the donor organisations as it was alluded to during a Parliamentary briefing in the year 2001.

The blurring role of politicians in relation to the management of the SAPS has its advantages as well as disadvantages. The proximity of politicians to management or administrative decisions can be welcomed in the sense of providing immediate support but can also be undesirable as Wilson, (1989) and Wolf (1993), in Webb Yackee and

Webb Yackee (2009), warn that such an arrangement could tamper with the organisation's autonomy and restrict regulatory decision-making in red-tape, thereby creating opportunities for politicians to micromanage and interference.

Political support also diminishes with time especially when political heads change hands and when government priorities are realigned. This will inevitably compromise and put at risk the effective implementation of the policy. This is because systems and processes put in place to operationalize the policy are not sustainable on their own and need continuous support.

2.3.2 Role of Hierarchy in Policy Implementation

The construction of policy is a means of responding to the societal needs in the main and this is the primary responsibility of parliament under the political head of the relevant department. In this case, the Ministry of Police is responsible to oversee the development and revision of the firearms control policy. The national commissioner will also play more of a leadership role than a managerial one in the development of all policies including this one. The implementation of this policy resorts under the Division Visible Policing at national level. The component that is directly responsible for such implementation is CFCR.

The SAPS is a national department of government which in terms of section 205 of the Constitution (Act No. 108 of 1996) should be structured to function in the national, provincial, and where appropriate, local spheres of government. These three layers therefore dictate the nature and scope of the devolution and delegation of authority. In the South African Police Service, devolution and delegation of authority to lower levels of management is dealt with in terms of the national consolidation notices.

Van der Waldt and du Toit (1997) distinguish between national policy and operational policy. National policy is made by the legislative authority and devolved into an administrative policy. Then public managers formulate operational policies within the framework of the national policy. CFCR as the responsible entity for the implementation of the firearms control policy, had to put in place a strategic plan in order to ensure enforcement and compliance with the policy. In the view of Achua and Lussier (2010) the successful strategies involve among others, to oversee the formulation of objectives,

strategies, policies and structures that translate vision, mission, and core values into business decisions. This assertion may be effective in a small to medium size organizations, however with large organizations like the SAPS it will prove rather challenging particularly with the implementation of such strategies and policies.

Hejern and Porter (1997) advocate some degree of autonomy at various levels however with close cooperation in ensuring smooth interface from broader policy framework constructed by national authority and its implementation by regional and local levels.

2.3.3 Bureaucracy and Policy Goal Ambiguity

In the implementation of the firearms control policy at provincial level, it appears the challenge has been bureaucratic in nature in that much of the decision making power rests with the national office. This assertion is alluded to by Ripley and Franklin (1986) in their postulation that the implementation of policies and programmes is usually infested with features that complicate processes, confuse patterns of interaction and eventually delay implementation. This view is further backed by Greasly and John (2010) that within a bureaucracy, there are those who would oppose anything regarding new policy initiatives in order to protect their fiefdoms and that this influence may only be limited by the political leadership. However Bass and Raggio (2006); Howell (1977); Pawar and Eastman (1997); Shamir and Howell (1999) in Wright and Pandey (2010) argues that in the public sector, the role of a political leader is less common and less effective as compared to the private sector in that in the latter case there is more reliance on bureaucratic control mechanisms. Within the bureaucracy more often than not those entrusted with the powers and authority to draft strategies intended to implement policies may also abuse their powers by pursuing their own agendas within the given policy framework. They may also abuse resources allocated for the implementation of the policy and create positions for their friends and families. Where there is laxity in monitoring resources are often diverted from the intended purpose.

The foregoing practice could be found manifesting in internal policies as has been observed by Mullin and Daley (2009) in postulating that institutional context and standard operating procedures can have an influence on bureaucratic behaviour.

"Since the seminal work by Lispsky (1980), suggesting that the actions of street-level bureaucrats diverge from stated policies, a number of scholars have attempted to identify the extent and sources of this divergence. It is now accepted that the actions at the frontlines of policy do sometimes, if not often, differ from the intentions of higher ups" May and Winter (2010:453).

According to a Work Study Report on the structuring of Provincial Firearms and Liquor Control, in 2005, the provinces are responsible for among others, ensuring of effective control of firearms within the province; ensuring of effective control of liquor within the province. The consideration of new firearm licence applications and competency to possess and use of firearm is the responsibility of Head Office while the provincial level is only responsible for considering the renewal of firearm licence applications. The station level is responsible for receiving and processing of such applications. This arrangement is not necessarily strange to the normal practice in many organizations, though it has its own challenges that will either negate or enhance the policy implementation.

Pycraft et al. (2002) identifies three levels of hierarchy of strategy as corporate, business and functional. They however acknowledge that the relationship among these three levels is a complex one and overlaps more often in practice. In essence what is being emphasised is that environments differ and should dictate which strategy is relevant. It is this ambiguity in assigning of responsibilities that creates challenges in the implementation of policy.

In order for CFCR to be able to manage and control Estate Firearms, there is a need for sound processes and systems to be in place in order to facilitate the flow of information whenever death of such a person has occurred. Indeed deaths are reported both at the office of the DHA and SAPS. However reports to the SAPS are meant for just reporting and not necessarily for the creation of database of deceased persons.

It is the former department that has such a responsibility as it maintains the birth and death registers. It is not clear what the nature of cooperation is between SAPS and DHA in exchanging the information on deceased persons who owned firearms. According to the TMS Manager the DHA do supply information of dead persons who owned firearms to the SAPS. Apparently this information is not automatically linked to the EFRS as it has

to be updated every time it is received. The general obstacles to the implementation of policy are outside the control of the administrators because they are external to the implementing agency. Some of these arise when the politicians state the policy end and neglecting the means to achieve that.

John (1998) noted that policy implementation may sometimes be limited by the relationships between and within the public agencies which are highly complex and difficult to manage as compounded by their autonomy, different interests and values.

DFO's are the actual implementers of the firearms control policy. It could not help but to keep on emphasizing the critical nature and importance of making available the resources to that level. In order to effectively implement the firearms control policy DFO's should be given more leverage and powers with regard to resources including access to information. The Harvard Business Review (2000) put it appropriately when it says strategy is the art of creating value and in the value chain all managers are equally important. The processes of firearms control should have the value-adding element in the whole chain.

The availability of information on firearm owners is a policy issue which should form part of the initial policy construct by the political leadership. It would be a futile exercise were the DFO's to approach the DHA individually to seek information on deceased persons who owned firearms while there is the EFRS which was designed to facilitate the flow of information. The complexity of the implementation of the firearms control policy is characterised by the centralization of access to information on the EFRS.

In this day and age, technology is central to most, if not all, processes and the creation of databases and access to such information should enhance efficiency in the execution of tasks. Despite the allocation of R 97 million to upgrading Information System (IS) in 2009 as part of the strategy to implement the firearms control policy, all seems to be gloomy when it comes to accessing information on deceased persons.

In the policy construction phase, leadership outline objectives and make commitments towards ensuring the creation of structures and the availability of resources. This commitment alone will not achieve objectives and therefore, something more than just that needs to be done. This view is further supported by Achua and Lussier (2010:381) in

their assertion that "another factor that makes strategy implementation a difficult process is related to the many components that need to be integrated in order to turn a chosen strategy into action. Leadership decisions on key issues such as appropriate annual objectives, structure, culture, pay or reward systems, budget allocation, and organisational rules, policies and procedures will determine the success or failure of strategy implementation". They further argue that decisions on these matters should support the strategy right from policy development up to implementation phase.

In support of the foregoing Robson (1994) postulates that the process of policy construction should be continuous and must involve the activity of assessment, selection and implementation. It is apparent that the role of leadership at implementation level becomes obsolete as all that is needed would be managing processes and systems that have been created already. Achua and Lussier (2010) suggest that in the unavailability of resources meant to support the policy implementation, managers should prioritize and do with the little that they have. However this view may not find space in the argument if the resources concerned involves the information that is not available as is the case with the DFO at station level who can only work with and manage all that is at his/ her disposal at the point in time.

2.3.4 Inter-Departmental Systems Linkage and Co-Operative Government

2.3.4.1 Co-Operative Government

In developing a strategic direction for an institution, one of the fundamental issues that must be undertaken is the scanning of the environment within which it is conducting its business. This process involves what is referred as "SWOT" analysis (Ehlers and Lazenby: 2004). The "S" and "W" stands for the strength and weaknesses of the institution respectively while the "O" and "T" stands for external opportunities and threats that the institution is likely to be exposed to. It is the opportunities that this study will be interested in particular, how the SAPS identify and utilises same.

Hogget (2006) cited in Andrews and Entwistle (2010) observed that public organisations enter into partnerships mainly because they need to extend their influence into other departments. From this analysis it could be thought that such departments or sectors

should be in some kind of sharing responsibilities hence the infiltration. However in many instances jurisdictions are clearly demarcated and it should not be an issue why there should not be co-operation. In the case at hand that this study is focussing on, the SAPS will greatly benefit from any co-operation with DHA in particular. In support of the foregoing view point, Mullin and Daley (2009) have noted that state and other agencies are increasingly forging collaborative relationships in order to address complex public policy issues that will not be possible to attend to by a single department. Government departments are structured in such a manner that skills, competencies and strategic information is dispersed across the spectrum hence collaboration is inevitable.

The SAPS is but one of the many organs of the state created to provide services to the public and its budget comes from the tax payer. Even though there is no competition for the SAPS in the provision of safety and security in a business sense still they must strive for excellence and search for better ways of doing so. Despite the initiatives that each government department must come up with, the legislature had foreseen the need for such co-operation hence a provision has been made in the Constitution.

Section 41(1)(h) of the Constitution of the Republic of South Africa, (Act 108 of 1996) states that all spheres of government and all organs of state within each sphere must co-operate with one another in mutual trust and good faith by;

i) *Fostering friendly relation;*

ii) *Assisting and supporting one another;*

iii) *Informing one another of, and consulting one another on matters of common interest;*

iv) *Co-ordinating their actions and legislation with one another;*

v) *Adhering to agreed procedures*

These provisions in the Constitution could be referred to as an enabling platform for the SAPS to identify and fully utilise the opportunities that are available within other state departments in the implementation of the Firearms Control Act, 2000 (Act No. 60 of 2000). The two state departments that have a direct influence on how the SAPS manage and control firearms of deceased's persons are the DHA and DJ&CD. The former department keeps records of dead people while the latter is also involved in the administration of estates which concerns firearms in this regard.

During the tenure of the Arms and Ammunition Act, 1969 (Act No. 75 of 1969), the Central Firearms Control Register, (CFCR) (as known after the coming into operation of the Firearms Control Act, 2000) introduced the Firearm Register System as a measure of capturing and maintaining firearms data in the country. However there were concerns as to the accuracy of this system and it did not come as a surprise during the review of the firearms control policy that a new Enhanced Firearm Registration System was developed and introduced. This system was to be compatible with many other systems in the 21rst century. Pycraft et al (2010) acknowledges that information technology is meant to provide appropriate systems that needs to support operations while at the same time allows for continuous monitoring.

In its Strategic Plan 2010/2011-2012/2013, the DHA outlines the plan on registration of deaths, the procedure to be followed in completing form BI-1663, information Services (IS) including Transversal IT projects and Information System Strategic Outputs. These are explained hereunder as follows:

2.3.4.2 Registering of Death

The Births and Deaths Registration Act, 1992 requires that a person's death be reported to any one of the following people:

- Specific officers at the Department of Home Affairs
- South African Police Service members, especially in areas where the Department of Home Affairs has no offices
- South African mission, embassy or consulate, if the death occurred abroad
- Funeral undertakers who are appointed and recognised by the law

Form BI-1663 (Notification of death/still-birth) must be completed when reporting a death. The following people have to complete different sections of this form:

- The person reporting the death

- A medical practitioner (where a medical practitioner is not available to complete this form, in rural areas for example, a traditional leader may complete the form)

- A Home Affairs official (where an official from the Department of Home Affairs is not available then a member of the SA Police Services may be approached to complete the form)

A Death Report (Form BI-1680) will be issued after a death has been registered. This report can be issued only by someone whom the DHA has authorised to do so (this includes traditional leaders, members of the SAPS and authorised undertakers).

The Births and Deaths Registration Act, 1992 only makes provision for manual systems and processes which are kept and maintained internally in the DHA. The death reporting Form (BI-1663) will presumably be delivered to the DHA at a later stage for the purpose of capturing such death in the Death Register. Despite creating other avenues for people to report deaths the DHA is eventually the custodian of all data relating to dead persons who were once entered into the birth register. If this is the state of affairs within the DHA about data of deceased's persons then it would be rather premature to speak of inter-departmental systems linkage. In the following discussion the study looks at the systems within the DHA.

2.3.4.3 Information Services (IS) including Transversal IT projects

The Strategic Plan for 2011/2012 for DHA reported that the priority in the reporting period was to enhance the systems that core business depends on, as well as improving operational efficiency and enhancing IT security. In this regard, progress was made in the following areas:
A Passport Live Capture system has been rolled out to 40 offices in the 2009/10 financial year. The system has improved the turnaround time for passport applications and enhanced security. A Track and Trace system, which existed for other products like passports and IDs has been extended to Permits and Late Registration of Birth (LRB). Access to services has been improved through the implementation of the birth registration system in 127 hospitals. In addition, 65 mobile trucks have been installed with IT infrastructure and satellite connectivity to be able to render services in deep rural areas. System enhancements were made to all the systems mentioned below in response to business requirements:

• National Population Register (NPR);
• Home Affairs National Identification System (HANIS);

2.3.4.4 Information System Strategic Outputs

As part of its strategic outputs from its Strategic Plan for 2011/2012, the Information System branch of DHA has lined up the following for the next three years are:

- Ensure key systems integration and enhancements to improve data integrity and enable faster processing of departmental services
- Movement Control System (MCS) integrated at all ports of entry with visa system in missions to provide near real time data
- NPR data clean up (removal of duplicate and data inconsistencies) to ensure data integrity and business rules integrated with systems to prevent duplicates
- 3rd Party verification technology implemented – Integrated Justice System(IJS), SAPS, Correctional Services, Justice, SASSA, Housing and SABRIC

• National Population Register (NPR) / birth, marriage and death (BMD) enhancements

Flowing from the foregoing discussion on the DHA's Technology and IS statuses and future plans it is clear that a system is available for the Integrated Justice System which includes the SAPS. It is therefore safe to contemplate inter-departmental systems linkage. The next focus would be on how these systems are linked and managed.

According to the TMS, the component of the SAPS that is manages and maintains all systems in the police, DHA do supply information on a continuous basis of deceased' persons who owned firearms. However this information must still be verified. This exercise means that such information cannot be released to the DFO's at station level until the authentication process has been finalised. Even though the verification has been finalised it does not necessarily imply that such information will be readily available. As for the DFO death information will only come to their attention once there is an enquiry on the system for whatever reason about an individual. The other occasion that the SAPS would know about death of the firearm owner is when a report has been made by the next-of-kin which seldom occurs. This reporting could be said to be voluntary rather than

mandatory on the part of the family members as many people are seemingly oblivious on these matters.

The importance and the benefits derived from putting in place relevant systems for the purpose of realising organisational objectives cannot be overemphasised.
It would be a futile exercise to just have these systems without proper management as no benefits will be derived as seems to be the case with the SAPS system that keeps data on deceased persons. As Robson (1994: 172) advises from an example of banks "for this class of organisation Information System (IS) is the means of delivering the goods and services of the sector. Banks and Financial Services are the classic example of this. The computer-based transaction systems underpin the business operations and the organisation depends upon IS. Any failed systems will stop their operations, an inefficient one drives up the costs and inflexible one stops product development", the SAPS cannot afford the status quo. One of the objectives of the firearms control policy is to stop the proliferation of firearms and should the SAPS continue to fail accounting for all firearms that were issued with licences it is as good as fighting a losing battle.

Over and above following the processes outlined in the Births and Deaths Registration Act, 1992 when reporting the death of a person, other processes are applicable, particularly when the deceased had property. In instances of this nature the Administration of Deceased' Estate Act, 1965 (Act No. 66 of 1965) comes into the picture. According to this Act, deaths must be reported within fourteen days of such incident to the Master of the High Court (MHC). This Act does not pronounce any procedure to be followed should one of the items in the estate be a firearm. The management of the winding up of the deceased estate by the Master of the High Court (MHC) is another deficiency in the control of firearms when one of the items is a firearm.
As cited in Mullin and Daley (2009:760) Leach, Pelky, and Sabatier (2002) have noted that, "the broader literature on collaboration suggests that multiple factors are important in creating and maintaining well-functioning working relationships between organizations. One finding suggests that individuals are more likely to collaborate when issues are salient"

The reporting of deaths at the Master of the High Court (MHC) is normally done personally by the next-of-kin. It is not clear whether there is a system designed to capture such reports or not.

2.3.5 Next-of-Kin in the Management of Estate Firearms

2.3.5.1 Participation of Society in Policy Development

Policies are developed as a means to enhance a better life for the citizenry and also to provide for service delivery. This view is also supported by Smith (1993) in observation that models of policy implementation takes into cognisance the political and social change especially where government is a custodian. In essence, policies are meant for people and people for policies. This is not in the sense of creation but in the sense of fulfilling human needs. The existence of policies means enforcement and compliance.

A chief agency that initiated the development of such a policy will be responsible for its enforcement while a section of the population that is directly or indirectly affected by it must comply. In the implementation of a policy, Smith (1993) uses a model approach which is characterized by tension that is likely to exist among four components which are:

- Idealized policy,
- Implementing organisation,
- Target group, and
- Environmental factors.

Smith's (1993), further postulation is that the tension among two or more of these components may support or reject the policy at issue. The relevance of the model in relation to this study will be in the implementing organisation which is the SAPS and the target group which in this case is the firearm owners and their next of kin.

Enforcement and compliance of the firearms control policy will be the main discussion point and the focus of the tension. It would be appropriate to first look at the policy

development phase and in particular, the role players in order to present a perspective for the ensuing discussion. The SAPS is the representative of the executive that drafted the policy and it is assumed that the following process was followed:

- Issue/ Problem Identification
- Search for causes of issues/ problem
- Fact gathering and analysis including linkages with other policy areas
- Identification of options to address issues/ problems
- Process of choice of preferred policy option
- Specification of policy objectives
- Design of implementation strategies
- Process of policy decision making
- Existence and use of monitoring and feedback mechanisms
- Policy review and reformulation

The above process has been adapted from Corkery, et al. (1995) and it is also supported by many other authors such as Smith (1993).

From the foregoing process, attempts are made to find the role of the public in the policy development. Fact gathering and analysis will be most appropriate and wherein the role of the general public could be located. In substantiating this position Corkery, et al. (1995) could not have put it better in that "consultation with civil society as an integral element of the policy formulation process calls for procedures for such consultation within government which are effective and are used. It also requires that there are aware and informed "focal points" in civil society capable of making or responding to opportunities to participate".

Deductions from Corkery, et al. (1995)'s postulation is that individual people are unlikely to participate in the policy development processes unless they act as a collective. Under

normal circumstances a collective will comprise individuals with common interests in the subject matter and will bring with them some kind of skills and competencies. As nature does not allow any vacuum or void in the society's individualism Smith (1993) suggests the idea of policy networks which he says exist in order to formalise the relationship with the government and the groups. The formation of these groups will be informed by various interests, meaning there would be for example, an interest group for the environment, women, children, security or human rights. Each of these groupings will attain some kind of a status in their respective areas of interest. This become an eventuality as Smith (1993) has observed that where government wishes to achieve specific policy goals while the groups has interest of influence then both parties become mutually dependent.

The review of the firearms control policy like many other policy exercises drew interest from a few groups such as the BGOASA, SAGA, SAHGCA and GFSA as well as some government departments like SANDF and DCS.

2.3.5.2 Black-Gun-Owners Association of South Africa

In essence, this association could be referred to as a pressure group formed after the implementation of the firearms control policy. Its main concern was that the FCA is biased against previously disadvantaged people and that many gun dealers were closing shop leading to unemployment. As the name suggests, this association represents the interests of all individual gun owners in this country excepting whites.

The assumption is that gun owners would mean individual owners of licensed firearms who are Black. The association has no known web page and its constitution is inaccessible. Because of the absence of a clear purpose statement and objectives it would be accidental for it to imply that it can or is capable of representing even the interests of black firearm owners, whether during policy debates or for any other purpose.

2.3.5.3 South African Gun-Owners' Association

According to this associations' constitution, it was established in 1985 following new developments in the Arms and Ammunition Act, 1969 (AAA) about the limitation on the number of firearms each individual could possess. Since then, it claims, it has been representing the interests of individual firearm owners in various areas in this country. Its constitution further outlines the following aims and objectives:

- To ensure that firearm laws and regulations are sensible.
- That laws and regulations provide for adequate protection of society at large; and
- That laws and regulations provide for sufficient enforceable penalties to deter the criminal and negligent use of firearms without unnecessarily restricting legitimate and responsible firearm owners.

This association further claims that it is a non-profit, non-discriminatory organisation whose sole purpose is to represent the interests of all people who embrace the principles of safe and responsible ownership and usage of firearms for sport, recreation, hunting and self-defence. What is not clear though, is its membership figures which it has not been able to provide on its website. What cannot be disputed however is that it is participating on policy matters relating to firearms and therefore representing some firearm owners. On the 8 July 2010, it lodged an answering Affidavit, on behalf of firearm owners, in support of a court challenge against the SAPS. Some kind of legitimacy could be assumed to prevail in this regard.

2.3.5.4 South African Hunters and Game Conservation Association

This association was, according to its constitution, established in 1949 and its retired CEO Mr Jan van Niekerk, claimed that membership has risen to more than 41 000 registered members in 2009 and because of these numbers it has become the largest and leading organisation in the hunting industry. In the main this association represents the

interest of hunters, sports shooting persons. These categories of participants are individuals who have associated themselves around a common interest and they possess different kinds of firearms.

Among its successes, SAHGCA claims that it also had a huge influence in the court application that ensured the prevention of criminalisation of law abiding firearms owners on 30 June 2009. SAHGCA's legitimacy in the eyes of legal firearms owners seems to be beyond question if their membership numbers is anything to go by. Since it was established even before the coming into operation of the Arms and Ammunition Act, 1969 (AAA) it could be assumed that they also participated in the development of the same policy even though its membership then could not be verified. It is a given that it had a contribution to make to all other firearms policies that came in its life time.

2.3.5.5 Gun Free South Africa

According to its constitution, GFSA was established in 1994 with the aim of building a safe and secure South Africa, free from fear, by reducing the number of firearms in society.

In the main the objectives and mission of this organisation are as follows:

- No civilians carry guns;
- There is tight control on the use of firearms by security personnel;
- Illegal guns are removed from society;
- The promotion of a nationwide public awareness campaigns
- Defend the Firearms Control Act and monitor its implementation;
- Promote the establishment of Gun Free and Firearm free Zones;
- Provide research and analysis of the causes, consequences and effects of gun violence;

- Support community initiatives dealing with gender based violence and vulnerable youth and gang violence.

This organisation is apparently the odd one in relation to those discussed already in that it advocates for the absence of firearms in societies while others are claiming to defend ownership of same. Either way these organisations or associations have some interest in the firearms and the laws and regulations and their participation should have been or continue to be crucial on policy matters. It is immaterial whether they represent all firearm owners or not they are an important cog in the policy development and implementation considering that individual firearm owners are unlikely to participate.

2.3.5.6 Public Awareness and the Role of Government

The public awareness on public policy by government is assumed to take place during the policy development stages where comments and input is requested from the general public. This is normally done by publication in the Government Gazettes. Having discussed the participation process and the likely participants, the question could be what about those individuals who are associated with neither of the Associations. One should also consider how many ordinary people would buy and read Government Gazettes. Perhaps this approach is neither appropriate nor effective in disseminating the required information to the target group in particular. If this method of interaction with the public is insufficient then what other means could be employed?

Report No. 10 of 2006/7 of the Public Protector Annual Report made the following findings and recommendation:

- Sometimes the public service was slow to adapt to unanticipated issues, did not communicate effectively with the public or failed to recognise the administrative burden that government requirements could impose on people; and that
- A comprehensive communication campaign by the Central Firearms Registry on the requirements to obtain a firearm licence should be launched to inform the public.

The foregoing pronouncement by the Public Protector indicates a deficiency in communicating a policy to the public and further recommends that a different approach be adopted to ensure the public is appropriately informed on matters of their particular concern.

The fact at issue in this study concerns the firearms owned by deceased persons to whom the public awareness exercise would have been relevant in their life time. What would be of interest would be the knowledge possessed by the next of kin of the deceased firearm owners with regard to the requirements in the administration of such firearms. With the accepted lack of general knowledge on the part of the public on matters of policy, either by sheer ignorance or lack of information from government, compliance will be a serious challenge. The compliance issue will remain with the next of kin to inform the SAPS of the death of the firearm/s owner. It is however not the reporting of death of the owner of the firearm/s to the SAPS per se but the appointment and the steps to be taken by such an appointee. Should such a process not be invoked, who must then be blamed or would there be any legal obligation on the part of the executor who may be the next of kin to make such a report? What are the penalties for failing to comply with the requirements of the law? The FCA provides for processes and assigns responsibilities to various persons and departments in relation to the above. Apparently these entities should take responsibility. Should they fail this will lead to firearms getting astray with no one to account eventually.

2.3.5.7 Reasons Why People Comply with Legislation/ Policy

Policies which are mostly translated to legislation are derived from the needs of the people that emerge from time to time. They are rules that regulate peoples' behaviour, how they interact with one another and also outline the dos and don'ts. In this sense policies are meant to better the lives of people. The policy development phase should therefore generate interest from the people as this has everything to do with them. However, as it has been demonstrated earlier, people reluctantly participate during the process of policy development, it is indeed worrying knowing that compliance will be difficult to achieve. Levi (1988, 1997) & Tyler (1990) cited in Levi, et al, (2008) warns that governments should try to be legitimate in the eyes of their citizens, because that may

motivate them to comply with the law. Without compliance, there is no rule of law no matter how well the institutions and regulations are designed.

It has been demonstrated earlier how the lacklustre approach by the SAPS in controlling firearms of deceased persons becomes a national security issue. From this understanding it should therefore be a matter of concern not only to the SAPS but also to other role players in the security cluster.

That some associations have approached the courts to seek recourse on what they regard as unfair policy is clear indication that this section of the society does not intend to comply with the firearms control policy. It is undisputed that the South African government is legitimate as it was constituted through democratic means. The action to approach the courts signifies that people not only refuse to comply with policies within a legitimate government but also against what is regarded as legitimate one.

2.3.6 Insufficient and/or Lack of Oversight and Monitoring

The nature of the policy discourse has allowed differing views on the models detailing the life cycle of a policy. Despite the divergent views, one thing is common though, and that is the monitoring of the policy as a continuous phase that should feature in each and every step.

Oversight and monitoring are relatively new concepts in the South African context if argued from the perspective of the pre-1994 era, especially when it comes to the security forces. In a general disposition, there has been a distinct absence of monitoring and oversight on how the security establishments were complying with the laws themselves, while on the other hand how they applied the laws.

South Africa under Apartheid was under undue influence of securo-crats hence the security forces were a law unto themselves. Cawthra (1994) observed that this situation was further exacerbated by lack of oversight either from parliament or civil society. Post 1994, the new government became preoccupied with monitoring and overseeing the activities of the security forces. In the case of the SAPS, three institutions were established to play the role of oversight over the police, namely Portfolio Committee on Police (Safety and Security at the time); Secretariat for the Police (Safety and Security) as

well as the Independent Complaints Directorate (now known as Independent Police Investigative Directorate). These bodies remained dormant as their responsibilities remained fundamentally vague and without meaningful impact on the intended changes on police conduct. What emerged from the perceived responsibilities of the bodies and their interaction with the police was obvious animosity. Many factors could be attributed to this state of affairs, such as superfluous and sugar-coated relations between the communities and the police, fragile democracy that brought about among others, the amalgamation of different forces into the SAPS and lastly the appointment of politicians as heads of the police. After the departure of Azhar Cachalia, the former Secretariat for Safety and Security, the relationship between the police and the Secretariat took a tumble and eventually disappeared into oblivion, an observation made by Mokotedi and Koitsioe (2007).

2.3.6.1 Civilian Secretariat for the Police

Section 208 of the Constitution of the Republic of South Africa Act, 1996 (Act No. 108 of 1996), provides for the establishment of the Civilian Secretariat for the Police Service to resort under the responsible Cabinet member. Subsequent to this pronouncement in the Constitution, the Civilian Secretariat for Police Act 2 of 2011 was enacted to give effect to the former. The CSPA has outlined the following functions in relation to the Secretariat:

- Develop and maintain legislation for internal and external research,
- Plan, facilitate, integrate legislation activities in the department and Parliament,
- Develop memoranda of understanding and Service Level Agreements,
- Develop and maintain protocols and approval process of legislation in Parliament, and
- Facilitate the review of standing orders.

The Secretariat's responsibility on policy and legislation matters is unquestionable as it is explicitly stated. What is obviously missing though is the integral part of a policy phase in the life cycle being the review and monitoring of such policies. The only review mentioned is that of standing orders which are surely not about the broader policy

framework. Even if policy or legislative review had been explicitly included in its functions it is apparent from their Annual Report for 2005/2006 that, because of depleted resources, many of the mandates could not be met.

Given the foregoing debate, the Secretariat's incapacity created a vacuum in the development, implementation and monitoring of policies as these three activities are inherently intertwined and cannot be separated. The performance of the firearms control policy especially with regard to the control and management of firearms owned by deceased' persons could not be assessed or monitored under the circumstances depicted by the Secretary of Police. The deficiencies that emerged during the implementation of the firearms control policy could not be corrected and therefore some or all of its objectives are apparently far from being realised.

2.3.6.2 Portfolio Committee on Police

The Portfolio committee is a sub division of Parliament which comprises individuals from political parties represented in that institution. In its Strategic Plan: 2012, the Committee has set five core objectives of which two of them are to pass laws and scrutinize and oversee the Executive actions and state organs. These objectives, it claims would be achieved through:

- Committee meetings,
- Debates in Plenary,
- Submission of questions in the National Assembly,
- Oversight visits, and
- Public Hearings

Subsequent to the above exercises the Committee reported that for the current financial year it will finalize, among others, the Amendments to the Firearms Control Act and have them submitted to the National Assembly.

It is assumed that the content of the amendments to the FCA was informed by the input and submissions from various stakeholders as outlined in the table hereunder.

Table 1: Monitoring Schedule: Portfolio Committee on Police

Third Term (23 July – 21 September 2012)		
Monitor SAPS Service Delivery in Northern Cape Province	Conduct random station visits in Northern Cape utilizing Station Monitoring Tool Enter data onto data base Draw and analyse reports	Independent parliamentary assessment of local service delivery
Monitor SAPS Service Delivery in Free State Province	Conduct random station visits in Free State utilizing Station Monitoring Tool Enter data onto data base Draw and analyse reports	Independent parliamentary assessment of local service delivery
Policy **White Paper on Policing**	Briefings by Department Research and analysis of White Paper Arrangement of provincial hearings o Invitations to stakeholders o Receive submissions o Analyse submissions o Allocate briefing slots to presenters o Draft programme for hearings Deliberations on White Paper Inputs formulated Drafting of inputs Consider and Table Reports	Clear understanding of the content and implications of the White Paper Information gathered from provinces and interest groups on issues pertaining to the White Paper Submit a report on the White Paper to the House
Not tabled **Legislation** **Private Security Industry Regulatory Authority Bill (3)**	Tabling of Bill before Committee and hearings on the Bill Briefings by Department Research and analysis of Bill Invitations to stakeholders Receive submissions Analyse submissions Allocate briefing slots to presenters Draft programme for hearings Deliberation on Bills Amendments formulated Drafting of amendments Consider and Table reports	Clear understanding of the content and implication of the legislation. Information gathered from provinces and interested groups on issues pertaining to the legislation Submit a report on the bill to the House
Not tabled **Legislation** **Amendment to and Regulations to the Fire Arm Controls Act (4)**	Briefings by Department Research and analysis of Amendment Bill and Regulations Invitations to stakeholders Receive submissions Analyse submissions Allocate briefing slots to presenters Draft programme for hearings Deliberation on regulations Amendments formulated Drafting of amendments Consider and Table reports	Clear understanding of the content and implication of the regulations Information gathered from provinces and interested groups on issues pertaining to the regulations Submit a report on the Bill to the House

Not tabled **Legislation** **Dangerous Weapons Bill (2)**	□ Briefings by Department □ Research and analysis of Bill □ Invitations to stakeholders □ Receive submissions □ Analyse submissions □ Allocate briefing slots to presenters □ Draft programme for hearings □ Deliberation on regulations □ Amendments formulated □ Drafting of amendments □ Consider and Table reports □	Clear understanding of the content and implication of the Bill Information gathered from provinces and interested groups on issues pertaining to the bill Submit report on the Bill to the House
Scrutinise quarterly expenditure and performance reports for SAPS for 2012 financial year – 1st quarter	□ Receive and review report □ Research conducted □ Briefing by National Commissioner and Senior Management	Quarterly reports for 2012 financial year scrutinised
Scrutinise quarterly expenditure and performance reports for IPID for 2012 financial year – 1st quarter	□ Receive and review report □ Research conducted □ Briefing by IPID Executive Director	Quarterly reports for 2010 financial year scrutinised
Assess Report of the Special Investigation Unit into property management	□ Request report □ Briefing by SIU on report □ Response by National Commissioner □ Research conducted □ Analyse report	Improve property management and provision and impact
Follow up assessment of SAPS Property Management and Capital Works	□ Request report. □ Briefing by National Commissioner on progress on addressing identified concerns in the Property Management area □ Research conducted □ Analyse report	Improve property management and capital works provision and impact Consider report in light of oversight visits conducted
Consideration/adoption of international agreements/proclamations including Proclamations under section 25 of Protection of Constitutional Democracy against Terrorist and Related Activities Act, 2004	□ Request report. □ Briefing by Senior Management of the SAPS □ Research conducted □ Analyse report □ Report on Proclamations	Committee Report on Proclamations
Consideration of the Domestic Violence Reports	□ Receive and review reports □ Briefing by Executive Director of IPID or Secretariat and SAPS on the Domestic Violence Reports	□ Reports reviewed

Special briefing session	Briefing by the Minister and Secretary on: o Issues emanating from the budget and strategic plan hearings including infrastructure o Follow up on issues raised in the previous meeting with the Minister o Finalised policy papers	Committee up to date with key policy developments in sector
Consider Interim Audit of the Auditor General into SAPS for 2011/12 financial year	Receive and review report Briefing by Auditor General's office Analyse report	Interim Audit report for 2011/12 financial year scrutinised

Source: Adapted from the Portfolio Committee on Police, *Strategic Plan 2012*.

What is not clear though from the intended amendments is whether the issue that this study is seeking to research which is the deficiency in the management and control of firearms of deceased's persons will also be examined. The attention of the Committee seems to be drawn by issue-specifics and not necessarily the entire content of the legislation. This is perhaps of the old-adage that "everything and anything is relevant when its time has come". The main issue that divert attention from some of the issues in the FCA, especially in the loss of firearms, is that all firearms that cannot be accounted for, are just classified as "lost" irrespective of the circumstances involved.

2.4 Mechanisms for the Management and Control of Estates Firearms

2.4.1 The Firearms Control Act, 2000 (Act No. 60 of 2000)

Section 147 (1) stipulates that in the event of death of the holder of a firearm licence (including a permit or authorization as the case may be), the firearm in question must be disposed of as prescribed.

Section 147 (2) provides for the executor of a deceased estate and who comes into possession of a firearm licensed to the deceased to store such firearm and ammunition as prescribed in the Firearms Control Regulations, 2004.

The Firearms Control Regulations, 2004 provides that the executor may only proceed with the finalisation of the transfer of the firearms once a confirmation letter has been received from the Register of Firearms which in this case would be the CFCR.

2.4.2 Executor's Role Regarding the Estates Firearms

After notification of appointment as executor has been received, the executor must take the necessary steps to ensure that the firearm and ammunition are stored safely in an approved storage facility as prescribed by Regulation 86 of the Act.

Once the executor is satisfied that the deceased's firearms and ammunition are safely stored as prescribed by Regulation 86 of the Firearms Control Act, 2000 (Act No. 60 of 2000), he/she issues a letter of consent to the heir concerned for the storage of the firearms and ammunition. A copy of the letter of consent must be lodged with the designated firearms officer of the area where the heir lives, with a request that the officer visit the person who has been given permission to keep the firearms in safe storage, to ensure that all the requirements are being complied with. This letter of consent referred to in Regulation 86 of the Firearms Control Act, 2000 (Act No. 60 of 2000), must specify:

- How long the person concerned may hold the firearms in safe storage.
- The reason for safekeeping.
- Adequate particulars to enable identification of the licence permit of authorisation and the firearm.
- The name, identity number and physical address of the deceased licence holder.
- The name, identity number and physical address of the person to whom permission has been given to hold the firearm in safe storage.
- The permission is for storage only and not for use.

Regulation 86 of the Firearms Control Act, 2000 (Act No. 60 of 2000) provide for a further procedure that within 14 days of receipt of notification of appointment of executor, the Registrar of Firearms must be provided with the following documents and information:

- Inventory as referred to above.
- Name of deceased and physical address at which he/she resided.
- Address at which the firearms are stored.
- A copy of the executor's letter of permission to the heir for storage.
- Copy of the death certificate.
- Copy of the executor's letter of appointment.
- Names, addresses and identity number of all beneficiaries if the firearms and ammunition must be transferred as per testamentary stipulations of law of intestate succession.

Upon receipt of the above the Registrar must then record the particulars in the Central Firearms Register and acknowledge receipt thereof. At least every three months the executor must inform the Registrar in writing of the progress and the steps taken to transfer such firearms and ammunition.

The Application for a firearm licence can be a long process, it is essential that the heir commence the process immediately. All documentation is to be completed in black ink. As soon as the solvency and liquidity of the estate has been established, the heir is given possession of all the documentation from the executor for transfer of the firearm. This documentation includes a properly completed SAPS 271 form, a copy of the executor's letter and permission for the transfer of the firearm. A copy of the permission must be sent to the Central Firearms Registry.

Regulation 86 of the Act, determines that an executor or administrator may not finally wind up the estate before the Central Firearms Registry has confirmed with him/her that all firearms that were in the name of the deceased have been transferred.

The requirements and the processes outlined in the Firearms Control Regulations are matters of public knowledge as they have been published in the Government Gazette. However it is doubtful whether this means of passing information is effective or not. Considering the reluctance of the public to participate in public matters it is indeed doubtful.

The other challenge with regard to compliance with the FCR is the appointment of the executor and the endorsement or absence of conditions on the appointment letter. Should such an appointment exclude or be silent about the consultation with the Register of Firearms before proceeding with the winding of the estates that includes a firearm then compliance with FCR may just be voluntary. This voluntarism is the worrying factor if considered in the light of controlling firearms because the non-compliance would spell two possibilities, namely that the executor has just failed to inform the Registrar of Firearms or that a firearm involved is missing.

The Administration of the Estate Act, 1965 (Act No. 66 of 1965) deals with properties of the deceased as estates without being descriptive of items that are affected by other legislation. Firearms are treated as part of the estate and there is no reference to the firearms control policy during the handling of such. These two policies are clearly incompatible with each other. This contradiction creates an anomaly and may likely be contributing to the challenges in the implementation of the firearms control policy.

In most cases, the finalisation of the deceased' estate should not be a complex process and should be completed within a reasonable period of time. However there are many obstacles that could delay the process for a very long time. Some of the challenges identified are disputes and discord among heirs, lack of information, the disarray of the deceased's tax and other matters, lawsuits before and after death, as well as incorrect and impractical wills, (Sanlam Trust: 2008).

The Assupol Life Limited has recorded that many South Africans do not have wills at all and those that have are not updating them. It also asserts that a myth exist that only husbands or male partners will die first and therefore only they should have wills.

The problem of control of deceased firearm however exists among all races and genders. These, and many other factors clearly negate the effective management of the firearms control policy and the related administration of estates if a firearm is involved. This ignorance on the part of citizens and firearm owners in particular contribute to a large extent on the management and control of firearms belonging to deceased' persons. Besides non-compliance to these policies there are also deficiencies as there is no enforcement from the side of the authorities, in particular the SAPS.

2.4.3 Firearms Licence Renewal Process as a Control Mechanism

Section 11 of the Transitional Provisions under Schedule 1 of the FCA holders of firearm licences, permits or authorizations must apply for the corresponding licence, permit or authorization within a predetermined period as may be prescribed by the Minister. Further provisions are that different periods will be determined according to surnames and dates of births of licence, permits or authorization holders. This pronouncement was made in the Government Gazette. Subsequent to the publication of the Government Gazette a media statement was issued by the Communication Section of the SAPS on July 30 2004 explaining the requirements for reapplication.

According to Chapter 14 of the Firearms Control Act, 2000 (Act No. 60 of 2000), the process of renewing licences was categorised into four with the first group being those born between January and March, the second being those born between April and June, the third being those born between July and September and the last being those born between October and December. The table below depicts these categories.

Table2. Periods for Firearm Licence Renewals

Date of Birth	Renewal Period
1 January to 31 March	1 January 2005 to 31 December 2005
April to June	1 January 2006 to 31 December 2006
July to September	1 January 2007 to 31 December 2007
October to December	1 January 2008 to 31 December 2008

Source: Adapted from the Firearms Control Regulations, 2004.

The transitional period was twofold, firstly to audit all licensed firearms and secondly to correct and validate firearm data on the EFRS. Following these two exercises, all licences were to be valid for a period as determined in the FCR and be renewable every five years. The renewal process was in itself to perpetuate the auditing and validation of the data integrity while at the same time managing and controlling firearms.

For some time all systems seemed tuned to go but considering the displeasure displayed during the development of this policy, it was rather naive to underestimate future challenges and defiance of the policy. It was not long before the associations such as

SAHGCA, SAGA and others connived and launched court bit to stop the implementation of the FCA.

SAHGCA was the first to launch a court bid to challenge the implementation of the FCA. In its main relief, it sought the following: " that all green licences issued in terms of the AAA be declared valid pending the finalisation of certain issues including the constitutional rights of the firearm owners"(MEMORANDUM ON SAGA COURT CASE, 2009). This request was granted by the court.

Subsequent to SAHGCA's victory, a series of interactions among stakeholders and the SAPS was undertaken. SAGA was however not impressed with what it thought to be favouritism towards SAGCA by the SAPS. This it did by writing to the Minister of Police indicating their concern and also demanding equal treatment. In the " MEMORANDUM ON SAGA COURT CASE, 2009, SAGA argued that:

"it became aware through the on-going re-licensing process, firstly on a gradual basis, but more recently on a much more accelerated basis that people were being prejudiced by the SAPS refusing the renewal of firearm licences for which individuals already had existing licences. On a proper construction and examination of the SAH interim decision by the Judge Prinsloo and in conjunction with the council, it was decided that because the interim order declared all existing licences valid, the SAPS should not have continued with the re-licensing process until the SAH case had been finalised and a final decision had been made of the validity of the transitional provisions and the so called old Act or the green licences".

These skirmishes between the SAPS and SAGCA as well as SAGA had a negative impact and if put in the correct context it did irreparable harm. The process of the renewing of firearm licences has been put on hold and therefore by extension the entire FCA. The management and control of firearms through the auditing and data validation has become null and void. In essence the whole effort of firearms control has been in vain notwithstanding the implementation debacle.

This stale-mate does not help the situation that existed prior to the coming of the FCA. As the interest of this study was among others, to investigate the challenges that negate the control of firearms of deceased persons, it would be rather difficult to establish if the non-compliance to the FCR is due to defiance to the FCA or sheer lack of knowledge. This will indeed remain elusive as ever.

The provisional court ruling was that the licences issued under the old act of 1969 were still valid pending the finalisation of the case. This ruling has effectively put the process

of renewing of firearm licences, and subsequently the control of firearms on hold, (Civilian Secretariat for the Police, Final Report, 2010).

2.4.1 Designated Firearms Officer as the End-User of the Enhanced Firearm Registration System

"In general: if one system serves another then the system which serves can only be conceptualized when an account of the system served is available. Now no one creates information systems for their own sake. They are service systems, created to serve or support people taking purposeful action" (Checkland 2011:109).

Keen and Morton, (1992); Sprague and Carlson, (1982) cited in Laudon & Laudon (1995) distinguishes between DSS and MIS. The former they explain are designed to deliver capabilities, not simply to respond to information needs and are more specific as opposed to the latter which is meant to provide managers with routine flows of data to assist in general management of the organisation.

Laudon & Laudon (1995) maintains that DSS is meant for the end-user which will be the DFO in the context of this study. According to them DSS should be under user control from early inception to final implementation and daily use.

The current practice with regard to the use of EFRS is that the DFO can only perform certain functions while others are reserved for higher levels of authority. The DFO can perform the following functions:

- Capturing of firearm licence applications in the system
- Conducting enquiries in relation to the statuses of applications

This access to EFRS by DFO's is clearly limited and crucial information that should enable decision making is inaccessible. This is inadvertently not in keeping with the spirit for which the system was designed.

Laudon & Laudon (1995:374) further postulate that "in philosophy DSS promises end-user control of data, tools, and sessions while MIS is largely dominated by professionals". These professionals in turn provide essential information to the end-user.

In the SAPS, EFRS is managed and controlled by TMS at national level. Certain crucial information is not readily available to the DFO and may only be made available on request. Information on deceased persons who owned firearms is not readily available and can be obtainable on request from TMS/SITA at head office. The responsibility of ensuring data integrity lies firstly with the DFO. Secondly for operational reasons the DFO must have all the necessary information at their disposal. Indeed the foregoing is just an ideal situation which in many instances remains an elusive pipe dream.

3. Conclusion

In this chapter efforts were made to identify relevant topics that were intended to respond to the questions raised by the study. Sources were then sought to locate the substantive supporting data in relation to the inherent challenges that negate the implementation of policy as well as identifying the mechanisms provided for the implementation of the FCA. The theoretical framework adopted in the study was able to locate the research within the broader scope of management and systems theory.

The literature also managed to add to the already existing discourse on the policy development and implementation by highlighting problems that affects all policies. The FCA was assessed by looking at its different phases starting from the revision of AAA, proposed recommendations by the Ministerial Committee as well as the challenges that have been experienced during its implementation.

Bringing the study closer to home the purpose of the study was also drawn into the discourse. This was about the management and control of firearms of deceased persons. In essence, the availability of relevant information was the main issue and whether the DFO was able to access the same at the time it is needed. This issue was debated within

the context of systems linkage between the relevant role players. These departments are DHA and SAPS as well as the DJ&CD.

There seems to be a relationship between systems of the SAPS and DHA although there is still a lot harmonisation that must be done in order to enhance efficiency in sharing information. The DFO still struggles when information of deceased persons who owned firearms is required. Even though it has been conceded by the SAPS that firearms left by deceased persons are posing a serious challenge, not much has been done to alleviate the problem.

CHAPTER THREE: RESEACH METHODOLOGY

3.1 Introduction

In order to validate and ensure the reliability of the outcome of this study the paper outlines a systematic scientific methodology that was followed. The methodology adopted in this study is substantiated in the research method applied, the research design, population and sample as well as data collection techniques. The problem statement that constitutes the core of the study is around the firearms left behind by deceased's persons that are unaccounted for. In order to understand this challenge, the study sets out the purpose and questions that guided the research and substantiate steps which were undertaken. The areas of research are the SAPS and the DJ&CD.

3.2 Research Approach

The nature of the problem that this study sought answers to are the challenges assumed to negate the efficient implementation of the firearms control policy with regard to the management of firearms owned by deceased's persons. Due to the unknown prior research and also to fully comprehend this phenomenon the enquiry has followed a qualitative approach.

"Qualitative research is a means for exploring and understanding the meaning individuals or groups ascribe to a social or human problem" (Creswell, 2009:4).

While Creswell opted for a singular definition Yin (2011:7) advances a more dimensional approach in defining qualitative research and list the following as features;

- Studying the meaning of people's lives, under real world conditions;
- Representing the views and perspectives of the people or participants in a study;
- Covering the contextual conditions within which people live;

- Contributing insights into existing or emerging concepts that may help to explain human social behaviour; and
- Striving to use multiple sources rather than relying on a single source alone.

In a similar view to that of Yin, Neuman (2011:174) explains qualitative studies as "involving language of cases and contexts in order to examine social processes and cases in their social context, and study interpretations or meanings in specific socio-cultural settings".

However Creswell (2007), as quoted in Machete (2011) brings in the following characteristics in explaining qualitative research: natural setting, collection of data in the field, researcher as the key instrument to data collection, participants meaning, and inductive data analysis and multiple source of data, emergent design, theoretical lenses, holistic account, and interpretive inquiry.

Leedy and Ormrod (2010) advise that a qualitative approach is appropriate where there is no or little prior research on the issue of the study.

An interpretive approach blended with descriptive study will be appropriate as deeper understanding of issues is sought. This approach is also supported by Merriam and Associates (2002) in their postulation that a qualitative study is used to discover and understand a process from the perspective of the people involved.

Data will be collected through interviews using open-ended questions. Because the process is non-linear, the formulation of themes will be flexible assuming an inductive approach as opposed to a quantitative approach, as Merriam (2009) has noted, where researchers gather data and deductively test hypotheses. In further elaboration of the inductive process, Merriam (2009) hints that researchers engage interviewees and documents while making observations then move on to build theories and also construct themes.

Qualitative research is not generalizable, however this does not in any way derogate the validity of its outcome. This is substantiated in what is called rich description which is its unique trait. Because of the nature of the data collected that was captured in field notes and, documents that validate and support the claims made, this approach cannot be less valuable.

The following advantages of qualitative research are noted from Mack et al (2006) as cited in Govender (2010:24):

- The researcher is able to describe in detail "the experience of people on a given issue".
- The researcher through his interaction with the interviewee is able to provide information about the human perspective on the research issue.
- The researcher is able to identify "intangible factors such as social norms, gender roles, ethnicity and religion".
- Questions are open-ended allowing the researcher the flexibility to probe for further responses from the interviewees.

The following disadvantages of qualitative research as identified by Boyce and Neale (2006) quoted in Govender (2010:24) are listed:

- It has limitations as expressed in researcher and respondent biases.
- In-depth interviews can be time consuming in both gathering and analysis of data.
- The depth of information generation is dependent on the expertise of the interviewer and the results of research will be unique to the unit of analysis and not "generalizable".

Qualitative approach was chosen because it has more advantages than disadvantages. Although this approach is time consuming, however the nature and scope of this study is that it only constitutes 33% of the entire programme meaning it is a research of limited scope.

3.3 Population and Sampling

The sampling method that was used is a non-probability purposive sampling method. According to Neuman (2011), this method is appropriate in selecting those special cases that are likely to produce the required information. Furthermore this method saved time in that identifying relevant respondents was not complicated. The other reason the researcher chose this method is that he is conversant with the environment within which the research was conducted and had rather easy access to the special cases needed for the

interview. This view is also supported by Creswell (2009) in his assertion that the researcher's personal experiences and training also influences the choice of a method.

The units of analyses for the study were the SAPS that is responsible for the implementation of the firearms control policy and the Master of the High Court who is responsible for the Administration of the Estate Act, 1965 (Act No. 66 of 1965). The population for the research was meant to consist of two senior managers attached to CFCR at the head office of the SAPS, three to the provinces of Gauteng, Western Cape and Kwa-Zulu Natal and one from the office of the Master of the High Court. However after the interview with respondents from TMS, former officer at CFCR, Gauteng and KZN the researcher realised that there was a need to broaden the scope of views on the issues being investigated. The researcher is aware that the outcome will not be more generalizable than it would have been with those earlier sampled respondents. This step was just meant to clarify the issues around the EFRS and its accessibility to the DFO's. Respondents from the five provinces are depicted in table 3 hereunder.

The following table outlines the areas of research, field wherein respondents are located as well as the selection criteria.

Table3. Triangulation Matrix of Respondents

AREA OF RESEARCH	FIELD OF SPECIALITY	NO. OF RESPONDENTS	SELECTION CRITERIA
SAPS	CFCR	1	This respondent had worked at CFCR as a manager for Legislation and Policy Development for nine years. He was responsible for drafting many of the firearms control strategies.
SAPS	TMS	1	This respondent is currently the System Manager for the SAPS specifically the Enhanced Firearms Registration System.
SAPS	Provinces: Gauteng, Free State, Eastern Cape, Mpumalanga & KZN	5X(1 EACH)	The experiences of these respondents varied from 10 to 24 years in the firearm environment.

DJ&CD	Master of the High Court: South Gauteng	1	This respondent is the Assistant Master of the High Court and has been in this position for nine years at the time of interview.

Source: Own Source

3.3 Research Design

"A research design is the arrangement of conditions for collection and analysis of data in a manner that aims to combine relevance to the research purpose with economy in procedure it is the conceptual structure within which research is conducted; it constitutes the blueprint for the collection, measurement and analysis of data", (Thurmond, 2009). This view is also supported by Creswell (2009:3) in his definition of research design "as plans and procedures from research that span the decisions from broad assumptions to detailed methods of data collection and analysis".

Data collection is one of the important steps in research design and therefore without it the research process would be incomplete and meaningless. In essence it will simply not satisfy the scientific criteria that validates the outcome of any such studies.

The researcher used interviews by asking open-ended questions in order to understand the challenges that are assumed to be prevalent in the implementation of the firearms policy particularly the management of the firearms of deceased persons. Respondents with experience in the implementation of the firearms control policy were interviewed and their perceptions and perspectives captured in writing and recorded as notes. The researcher also intended to record the interview but could not because of the respondent's unwillingness.

In this way this study is considered to be narrative as explained by Merriam and Associates (2002) when they assert that narratives are stories people tell to explain their own experiences of the situation being studied. Narratives are in fact captured in phenomenological studies although Creswell (2009) consider the two as separate designs. Leedy and Ormrod (2010:141) define "phenomenological studies as studies that attempt

to understand people's perceptions, perspectives and understandings of a particular situation".

However earlier studies on policy implementation by Manthata (2008) and Machete (2011) have used a case study while Moletsane (2011) has used a narrative as their design. Creswell (2009) explains that where processes are to be explored, the appropriate design could either be a case study or grounded theory. It suffices then to argue that because in a qualitative research, designs are emergent, both a case study and narrative designs will be appropriate for this study.

3.4 Data Collection

It will lend credence to the study to begin this discussion by understanding what data is and where is it likely to be located. Leedy and Ormrod (2010:89) provide the following advice about data: "Data are not only elusive but also transient. We merely catch a fleeting glance of what seems to be true at one point in time but is not necessarily true the next. Researchers must recognise that even the most carefully collected data may have an elusive quality about them and that at a later point in time they may have no counterpart in reality whatsoever. Data are volatile and they evaporate".

From the foregoing, it is arguable that information is only temporarily valid and may not be the next day. Perhaps to depart from the confines of time in relation to the validity of information it could be asserted that context should be the premise. Certainly to conclude that everything is relative and temporary would not be to err. Despite this rather gloomy postulation, research must still proceed and data should be collected that more often than not informs many decisions as those involved rely on the belief that there is some truth in the findings. When nothing could be proven believing is the only thing to invoke.

Creswell (2009) maintains that data collection procedures entail four basic types, namely Observations, Interviews, Documents and Audio-Visual Materials. The types that would be appropriate for this study because of the nature and scope of the research are interviews and documents. These are categorized into primary and secondary forms of data as depicted in the table below.

Table4. Triangulation Matrix of Sources of Data Collection

PRIMARY DATA	SECONDARY DATA
Interviews with Respondents depicted Table 3.	University of Witwatersrand library Books: Research Reports; Journals; Theses
	SAPS National Instruction on Estates Firearms
	SAPS Annual Reports
	Policy & Legislative Documents: Standard Operating Procedures; Civilian Secretariat Final Report, 2010 on the Functionality of the CFCR; Work Study Report, 2005 on the Structuring of Provincial Firearms and Liquor Control

Source: Own

There is little consensus with regard to which data should be classified as primary or secondary except data elicited through interviews which is regarded as pure primary data. For the purpose of this study the above categorization was adopted.

Sources of data may have their own flaws manifesting in bias, time, and perceptions as well as the purpose of the study. The human factor is one the most elusive element when it comes to checks and balances. Hence, it is of paramount importance to verify data in this regard by way of triangulation.

Thurmond's (2009:253) postulation is that "The use of triangulation strategies does not strengthen a flawed study. Researchers should use triangulation if it can contribute to understanding the phenomenon; however, they must be able to articulate why the strategy is being used and how it might enhance the study."

"Triangulation can only be done when data are available, whether they are data from different sources, different investigators, different theories or different methods. However, when data are available, there are a number of different reasons why triangulation can and should be used. When seeking to answer complex questions

concerning the quality, implementation, outcome and impact of a programme, the ability to draw from multiple inputs can provide a wider range of information and a significantly broader insight into the issues underlying the complex questions". (Rugg, 2010:25).
Indeed data will have more value and integrity if they can be verified by more than one source. This study too will endeavour to consult a number of sources as depicted in tables 1 and 2.

3.5 Primary Data

Primary data can be obtained through interviews and minutes captured during meetings. According to Creswell (2009) interviews could be conducted through various ways such as face to face, one-on-one or in person, telephonic or e-mail internet interview as well as the focus group.

Kvale (1983:174) defines the qualitative research interview as "an interview, whose purpose is to gather descriptions of the life-world of the interviewee with respect to interpretation of the meaning of the described phenomena".

Collecting data can be done in various ways which include face-to-face interviews as considered the most common. Besides face-to-face interviews, interviewing by telephone is popular too, while internet interviewing is also on the rise.

All these methods have their advantages and disadvantages and it will depend on the individual researcher which to opt for depending on circumstances. Little research has compared the benefits of these means of data collection, probably because, according to Shuy (2003), such studies are expensive and difficult to carry out, and few researchers have been motivated to examine the relative merits of the differing approaches.

All the interviews were person to person and lasted about one hour ten minutes (01h: 10m). Of the six, five were available for interviews except the Western Cape. The researcher is normally interacting with respondents during the SAPS Quarterly Conferences and it was during one of these assemblies that he was able to conduct the interviews. However the second set of interviews with additional respondents from Eastern Cape, Free State and Mpumalanga were done telephonically. This was due to time constraints and the distance between the researcher and the respondents whom it was not practically possible to interview person to person. The researcher had made similar

arrangements with respondents in both interviews done person to person and telephonically in order to minimise the difference between the methods.

According to Seidman, (1991) open-ended, unstructured approaches may seem more a friendly conversation than a data-gathering interview as opposed to highly structured protocols with preset and standardized questions from which there is little variance.
Such an approach is in keeping with the sentiments of Kvale (1983), who asserted that the design of qualitative interview research is open ended in that it is more concerned with being attuned to the participant than with necessarily following the same path for all respondents.
According to Neuman (2011: 305) an interview is "a short term, secondary social interaction between two strangers with the explicit purpose of one person's obtaining specific information from the other". This method of collecting data is appropriate for this study in that, the researcher needs to generate deeper understanding of the situation around the research problem through personal involvement. A person to person interview was done with respondents based on the questions constructed with the view to finding answers to the research questions.

3.6 Secondary Data

In addition to the primary data, secondary data was also collected. Secondary data is essential to the study in that it is a further diversification and enrichment of the primary data. Data that had been originally gathered for a different purpose are often used to answer a research question and these will include books, annual reports, minutes of management meetings and journals, (Kimberlin and. Winterstein 2008)**.** Data whose validity and reliability can be measured are normally not questionable as opposed to others for whom no testimony can be authenticated. However, scientific methods allay any fears by putting in place means of validating and ensuring that the research outcomes are reliable. The sources consulted in this study are depicted in table 3 above.

3.7 Validity and Reliability

"Good research practice obligates the researcher to triangulate, that is, to use multiple methods, data sources, and researchers to enhance the validity of research findings. Regardless of which philosophical, epistemological, or methodological perspectives an evaluator is working from, it is necessary to use multiple methods and sources of data in the execution of a study in order to withstand critique by colleagues". (Mathison 1988:13)
In observing the guideline by Mathison, the researcher has used different methods of collecting data, first by conducting interviews which were twofold, namely person to person interviews and telephonically interviews. Through the first set of interviews, the researcher needed more understanding of what the issues were in most of the provinces, hence the second sets of interviews.
For any study to be credible its validity and reliability should be beyond reproach. In order to ensure compliance to this requirement the researcher had to understand what this means as defined hereunder.
Neuman's (2011) view is that reliability refers to dependability and validity as suggesting truthfulness. What is clear from the author is that validity and reliability are measurement tools that the researcher will state upfront and use in ensuring the credibility of the results or findings of the study.
To validate conclusions and decisions Leedy and Ormrod (2010) postulate that the researcher's only perception of the Truth is various layers of truth-revealing facts. In the layer closest to the Truth are primary data which could be referred to as the most reliable and valid type of information. The paradox in this regard is that the provider of this data can be verified and further clarity sought, however the cognitive background that initiated the knowledge is not known. Because of time and distance of the source of data as well as the future need of such information various ways of collecting and storing data must be used. In addition to primary data, there is also secondary data which could be referred to as "hear-say" as the narrator is not immediately available and cannot be questioned to authenticate his/her claims.

The truthfulness that is being referred to by the authors does not relate to the correctness of the collected data but to whether such data was indeed collected and from the relevant

and appropriate sources. This, the researcher did by purposeful sampling the respondents and taking written notes of the interviews.

This was however, not sufficient, as another element of validity had to be satisfied, which is reliability. Reliability as part and parcel of validity is further defined as follows:

"Validity is often defined as the extent to which an instrument measures what it purports to measure. Validity requires that an instrument is reliable, but an instrument can be reliable without being valid"; (Kimberlin and Winterstein,2008: 2278). Bringing another dimension to the definition Gibbs (2007) in Creswell (2009:190) defines qualitative validity as meaning that the "researcher checks for the accuracy of the findings by employing certain procedures, while qualitative reliability indicates that the researcher's approach is consistent across different researches and different projects".

The truthfulness of evidence will increase its validity and reliability and it should lessen more doubts. This can only be achieved through following the prescribed procedures. This, the researcher has done by keeping proof of the procedures followed and data collected.

3.8 Data Analysis

Creswell, (2003:190) defines data analysis as "a process that makes sense out of text and image data. It also involves preparing data for analysis, conducting different analyses, moving deeper and deeper into understanding the data, representing the data, and making an interpretation of the larger meaning of the data".

Neuman's (2011) approach on data analysis involves techniques of coding, memo writing, and looking for outcroppings which are considered generic in qualitative research design.

Creswell, (2009) suggest that data should be organised and prepared for analysis and this, according to Neuman (2011) is done as follows:

- Data are captured in writing or and in audio-visual material during one on one interview. The researcher in this study conducted two sets of interviews. The first one was one on one interview with four respondents while the second set was done telephonically. On both occasions data was recorded in writing.

- Data are coded into open coding. The researcher used the data collected during the interviews to identify key viewpoints that arose from respondents.
- The themes that emerged during the coding process were then consolidated into similarities in order to draw the final, critical themes.
- Analysis of data was a continuous process as and when the interviews were concluded. A link was then established with theories in the literature.

3.9 Ethical Consideration

Creswell (2009) proposes the following ethical principles:

- Objectives of the study must be explained to the respondents. As the researcher was requesting permission to conduct research the purpose of the study was explained in writing as well as verbally to the people that were interviewed. Also the method of data collection that would be used was explained.
- A would be respondent from the Western Cape province was not willing to participate, as according to him he was also busy with a similar study and not eager to share information.
- Written permission to continue with the study was obtained from the SAPS and the Master of the High Court, South Gauteng. In the application for permission to do research the purpose of the study was explained. Both the SAPS and the Master of the High Court indicated that they would like to be briefed on the outcome of the research.
- The respondents were informed of the data collecting devices and activities,
- The respondents' rights, interests and wishes were considered during data collection and they were also informed that they may remain anonymous if they wished. The majority of them decided to remain anonymous and preferred to be referred to by their titles. For the purposes of consistency, all of the respondents are referred by codes.

3.10 Researcher Bias

Conceptualisation of any study begins with curiosity in the mind of the beholder. This is informed by a particular interest which is premised on a variety of issues. The issue that is of interest in this study is that the researcher worked at CFCR before and was also part of management there. I helped draft the Firearms Control Regulations, 2004 and my doing this study was underlined by preconceived thoughts of what the shortcomings were in the implementation of the firearms control policy.

The research design chosen and the questions asked allowed respondents to relate their own experiences and while doing so I resisted the temptation of influencing the outcomes. The interview notes were verified and checked with respondents to ensure their validity.

CHAPTER FOUR: DATA PRESENTATION

4.1 Introduction

In chapter one, it was explained that the purpose of this study was to investigate the challenges inherent in the implementation of the firearms control policy in the management of the firearms left by deceased persons. In pursuit of this purpose, interviews were done based on the under mentioned main questions and data collected which is presented:

- What are the inherent challenges to the implementation of the firearms control policy?
- What are the mechanisms available for the implementation of the firearms control policy?

In Chapter three, a detailed exposition of the methodology used was provided of the sampling and the criteria used to identify respondents in this study. The journey of seeking answers to these questions assumed the form of interviews with identified respondents and secondly, analysis of documents collected particularly from the SAPS. The Master of the High Court could not provide any records or documents relating to their management of the firearm/s as part of the deceased estates. The respondents displayed varying degrees of comprehension of the policy discourse. In many instances some had to verify and confirm the information they wanted to provide. This would happen despite their vast experience and knowledge of the firearms environment. They were however informed to relay their individual experiences from what they knew, perceived or understood. They were also informed of the purpose of this study and that their responses would and should contribute toward better policy construction. In some instances there was no response, or a completely contradictory response to the issue asked. In such cases the researcher abandoned the issue. The respondents are coded as follows: (Co-TG interviewed on 2013-01-03); (Co-CP from KZN interviewed on 2012-12-14); (Co-NG interviewed on 2012-12-12); (LCo-IS from Gauteng interviewed on 2012-12-18) and (AM-KS from the Master's office interviewed on 2012-12-20). The above were a first set of interviews after which follow up questions were asked with some

respondents. Because of the mostly contradictory responses by Co-NG on one hand and Co-CP and LCo-IS on the other, the researcher deemed it necessary to probe some questions further, also with respondents from other provinces. This comprised the second set of interviews. The provinces are Eastern Cape, Free State and Mpumalanga. The interviews were done telephonically with respondents on the following dates: Co-NG interviewed on 2013-02-04; Co-DK (Eastern Cape) interviewed on 2013-02-07; Co-PM (Free State) interviewed on 2013-01-28 and Ca-AM (Mpumalanga) interviewed on 2013-02-08.

4.2 Themes for Discussion

4.2.1 Political Leadership

The direction for this study lies in the purpose which was to investigate the challenges in the implementation of the firearms control policy. Since policy development is the responsibility of the political office it makes sense to start there to establish whether there are hurdles in that space. Four respondents from the SAPS were asked to state their views on the role of political leadership in the implementation of the firearms control policy. However only three responded to the question and these are Co-TG, Co-CP and LCo-IS. Co-TG responded as follows:

"It is the responsibility of the Minister to develop policing policies in this country and in fact my understanding is that his main task is to enable the police to execute their responsibilities in a more effective and efficient way ***[by making policies and legislation]****. What happened during the development of the firearms control act was that the then Minister of Safety and Security Steve Tshwete* ***[issued a directive]*** *that the Arms and Ammunition Act, 1969 be revised in its entirety. A Committee was then established to carry out that task. The work of that Committee produced what we call today Firearms Control Act, 2000".*

Co-TG is the former Policy and Legislation Head at CFCR and was directly involved in the implementation of the firearms control policy. His understanding is unequivocal on the development of a policy. Respondents Co-CP and LCo-IS however, demonstrated a rather passive understanding of the role of politicians in the implementation of the firearms control policy. It is not surprising though, because these two respondents were apparently not exposed to the same experience as Co-TG has been. Their understanding was further quizzed on the role of politicians in the implementation of the firearms

control policy because development is followed by implementation. The purpose was to investigate whether there are any challenges negating the implementation of such a policy. Co-TG had this to say:

*"The Minister's role in the implementation of the firearms control policy has been that of [**support by way of allocating budget**] for this purpose. You see in fact the problem with the budget is that it can increase or decrease from one year to another depending on whether the project is still being considered a priority. The funding for the firearms control policy has diminished since 2004".*

Respondent (Co-CP) says:

*"Political leadership mainly [**entered into this process to accomplish damage control**] once the system started failing internally due to lack of proper guidelines and clear instructions from CFCR.... currently very few court cases are made as the issuing guidelines are more clear and precise, few complaints are received and little political intervention is necessary".*

Respondent (LCo-IS) had this to state on the role of politicians on the implementation of the firearms control policy:

"in my opinion the implementation of the policy is the responsibility of the SAPS and other relevant departments. Political leaders need to [ensure that the policy is being implemented] by the SAPS and this has been done in recent years. Recently the Minister announced a turn-around strategy with regards to the backlog that had been accumulated at head office down to station level".

There is a clear departure in the understanding of the three respondents on the question of implementation and the role of politicians. Co-TG mentioned the support in the form of budget that the political office offered the SAPS in order for implementation to take place. The Researcher cannot agree more with him on the issue of dwindling amounts of budget as time progresses. It is a common practice that policies receive significant amounts of budget for the purposes of roll out. However, with time other priorities emerge and more money is normally redirected to such a cause.

Co-CP and LCo-IS are essentially highlighting an aspect that seems to be a common trend among all political heads. They both indicated that the Ministry of Police only came into the picture at the time when the firearms control policy started showing some practical problems. Co-CP mentions that the political leadership was only focussing on damage control, while LCo-IS refers to a turn-around strategy that was implemented because of

the backlog. It is clear that the political office only came into the picture as an intervention despite the fact that they should, as indicated by LCo-IS, also perform the monitoring and evaluation function. Policies in many instances are fraught with practical challenges and these can only be identified during the exercise of monitoring and evaluation, something that was apparently missing with regards to the implementation of the firearms control policy.

4.2.2 Management Role in Policy Implementation

This is the second theme that emerged during the literature review and in the same manner that the preceding theme emerged. The investigation to unearth the challenges to the implementation of the firearms control policy still continues. Four respondents were quizzed under this theme as part of the investigation whose premise was the role of management in the implementation of the firearms control policy. Three of the respondents were from the SAPS, while one was from the office of the Master of High Court. Respondent one Co-TG had the following to say:

"At Head Office we drafted the firearms control implementation strategy in order to give effect to the Firearms Control Act. From our office we developed training manuals in conjunction with SASSETA. By the way this was the responsibility of Division Training we only provided our expertise. After this all the DFO's were exposed to the new training. We also introduced a new Enhanced Firearms Registration System in support of the Act. This was included as part of the training syllabus".

This question was meant to elicit an understanding from the respondents of the management responsibility on broader scope that include all levels. However it became apparent that two of the respondents had a rather confined focus while the third respondent was a bit broader in his response. Co-TG has had his focus at his office which was head office. From his narrative it is clear that efforts were made at head office level to put in place systems that were to enable the implementation of the firearms control policy. This could be considered as the necessities that are normally put in place at the beginning of any policy implementation. Policy life has many phases and all are equally important. In order to find out if there are any challenges in the implementation of a policy, monitoring and evaluation should be performed on a continuous basis. Even

though the political office is responsible for external monitoring and evaluation, there should still be internal checks and balances. From Co-TG's response, this aspect is clearly missing.

Co-CP is situated at the provincial level and his focus was clearly outside his own environment. By implication, he was perhaps indicating that his own performance at provincial level is wholly dependent on what head office is or is not doing. His response is as follows:

"Head Office must provide clear and transparent criteria for firearms ownership, especially as far as issuing of new licences are concerned in accordance to Batho Pele Principles of good governance"

His response laments the lack or absence of clear directives, a view that LCo-IS seems to be corroborating in his assertion that:

"The role of SAPS management according to my understanding is to give guidance to the stations regarding the implementation of the policy and also to ensure that such implementation is done according".

However LCo-IS's view on the role of management is broader than that of both Co-TG and Co-CP. His understanding is that it is the responsibility of management in general and not specifically head office to give guidance to stations. This statement will also say that the provincial office has a responsibility as much as head office has. Even though this is the case, the SAPS's protocol on communication and issuing of directives cannot be overlooked. The absence of this very important aspect in the implementation of the firearms control policy has had undesirable consequences. All three respondents from the SAPS have mentioned a court case that has been brought up against the SAPS and this having had serious implications on the renewal of firearm licences. LCo-IS puts it as follows:

"However there is a need for improvement with regards to this since there are still a lot of misunderstandings not only at station level but also at the provincial level. One good example of this is the issue of the renewal of licences that were never renewed before because of the court case that is pending, it is not clear whether people can still renew their licences or not".

The implementation of the firearms control policy is not the responsibility of the SAPS alone as was demonstrated in Chapter 3. The other role player in this regard is the Department of Justice & Constitutional Development. In instances where a firearm forms part of such estates then the Master's office has a responsibility of invoking the Firearms

Control Act. The extent to which the Master's office is involved in the implementation of the firearms control policy is indeed worrying as seen from the response that follows:

AM-KS a respondent from the office of the Master of the High Court (interviewed on 2012-12-20) says:

"In this place we don't manage firearms. Firearms come in as part and parcel of the estate.... the reason being that we are not too much involved in the management of firearm".

Section 147(4) of the Firearms Control Act, 2000 (Act No. 60 of 2000) clearly states that the Master of the High Court must inform the Registrar of Firearms of the names of appointed executors, administrators… and may not finalise the estate without adhering to the provision of this section. During the informal interview with the Master of the High Court, South Gauteng, it became clear that he was not aware of his responsibilities in terms of the FCA and he frankly requested that the SAPS should do more in terms of reaching out to other role players. The question then would be whose responsibility is it to ensure that other role players are properly informed of their responsibilities as contemplated in the FCA. Eventually it is the primary responsibility of the SAPS to enforce and ensure compliance to the FCA and therefore it is logical to assume that it is their responsibility to advise accordingly all those who have a role to play.

4.2.3 Inter-Departmental System Linkage and Co-Operative Government

This theme emerged as investigation was proceeding in chapter two (Literature Review). Its importance is found in the logic that an organisation like the SAPS cannot function and survive without the co-operation and partnership of other departments. As it has been demonstrated in the previous theme that the office of the Master of the High Court is an important part in the implementation of the FCA, other departments such as Home Affairs is found equally relevant. The purpose of this study once again is to investigate challenges that are inherent in the implementation of the firearms control policy in the management of the firearms of deceased persons. It is indeed in this sense that the Department of Home Affairs become an important role player in the implementation of the firearms control policy. Four respondents from the SAPS were quizzed on the

available systems and their functionality. Co-NG is the manager of TMS for Firearms Registration System and during the interview she confirmed that the SAPS has a system called EFRS and FRS which are linked to the Department Home Affairs' death register system. There was no one interviewed at Home Affairs, however their Annual Report was consulted, although there was nothing specific in relation to the EFRS or FRS of the SAPS. This theme would assist the investigation in unlocking the challenges inherent in the management of the firearms of deceased persons in that the DFO would need the information on dead persons who owned firearms immediately. The immediate availability of this information will certainly expedite the tracing and safe keeping of such firearms while the slow availability or absence of such information will definitely negate the purpose of stopping the proliferation of firearms. The issue here would be the existence of the systems linkage with other role players and secondly the immediate availability of information generated by such linkage. The four respondents from the SAPS all concur of the existence of the EFRS and FRS. It is the linkage and the information generated that they do not seem to agree on. The responses are as follows:

Co-TG says:

"We have the Enhanced Firearms Registration System which replaced the Firearms Register System after 2004. This system is managed and maintained by TMS and SITA. I believe that in fact I [heard that this system is linked to the one of Home Affairs] and transfers information of dead people who owned firearms. If you need more information on this issue you can contact TMS".

Co-CP says:

"[EFRS is linked] to Home Affairs. All deaths are reported from Home Affairs electronically to the EFRS. ALL DFO's have access if they check on a person's Id number. If specific request are made it must be referred to SITA".

LCo-IS says:

"There are two systems available currently for the purpose of implementation of the policy... both[these systems are not directly linked to any department,] however with regards to the department of Home Affairs the old system is updated daily upon receiving information from such department... ".

Co-NG says:

"The following systems are deployed in support of the Firearms Control Policy: Firearm Register System/Enhanced Firearms Register System and the Firearms Permit System. [A system interface] between

the Firearm Register System/Enhanced Firearms Register System and the Population Register (Home Affairs) exists".

Ca-AM says:

"The recommendation is that there must be a linkage between the SAPS and the HOME AFFAIRS 's Systems .If someone past away and he /she have a firearm in his/her possession when the family start applying for the death certificate with Home Affairs the Estate firearm must be automatically be reported to the police" .

From the foregoing responses a disturbing situation emerges that indicates the varying understanding among the very people who are supposed to implement the firearms control policy. Two of the respondents mentioned two systems that are available in the implementation of the firearms control policy while the other two mention only one. The situation is even more worrying when one of the respondents dispute what the other two are saying with regard to the linkage between these systems with the Home Affairs one. The fourth respondent seems confused as all he could say was that he "heard" that the EFRS is linked to the Home Affairs system of the population register.

Two respondents mentioned SITA as a role player in the management of information pertaining to firearms belonging to deceased persons. This is not corroborated by Co-NG who is the system manager at TMS. Whether there is corroboration or not and whether the systems are linked or not it is clear that there is consensus on how information is being kept and managed by people who desperately need it for operational purposes.

The researcher made a follow up interview with Co-NG and also included other provinces of which three availed themselves for this exercise. On being quizzed about the functionality of the EFRS as well as how information is managed Co-NG says:

" The EFRS is updated on a monthly basis with information of deceased person by Home Affairs… then CFCR must manage this information and update the system by transferring such information to State Department 316 to ensure that the DFO at station level receives it. What happens there is that once the EFRS is loaded with such information the pending application is automatically cancelled and the details of the firearm must be transferred to State Department 316 by the person appointed to do that. So the details of all the firearms, whose owners have died, should be kept in State Department 316…until they are transferred to new owners".

What Co-NG is alluding to is that the information on deceased firearm owners may not necessarily be managed properly. This is clearly indicated in her assertion that **"***CFCR must manage this information and update the system by transferring such information to State Department 316 to ensure that the DFO at station level receives it".*

Whether this is done or not it is not clear at this stage. The interview done with respondents from pall participating provinces corroborate each other's views and share the same frustration.

Co-DK in his frustration says:

"There is no control of estate firearms at Provincial level as the executors report all estate firearms directly to CFCR…. we feel that all executors inform not only CFCR, But also his local DFO and Provincial office".

What Co-DK is lamenting about is the clear [***lack of communication, insufficient information]*** on deceased persons who owned firearms. Most of all and quite disturbingly is that nothing is being done to control estate firearms in the Eastern Cape.

Co-PM from the Free State province says:

"The is no formal strategy but Station receive ID numbers for deceased persons from undertakers weekly, check firearm status and make follow-up with relatives where deceased where in possession of firearms"

Co-PM's assertion is a further corroboration of the situation around the management and control of estate firearms at least in those areas where there are participants. The researcher is also tempted to generalise but the nature of the research method in this study does not allow such a conclusion.

Ca-AM says:

"The Province encourages the community and the families to report estate firearms to the police".

In Mpumalanga the situation seems to more the same as those wherein the interviews were done. The methods of generating information on deceased persons are the initiative of the people concern and there is little reliance on the EFRS if any for the sourcing of the required information.

Co-NG is the manager at TMS for the firearms systems and will obviously know what she is dealing with, however what one knows and what exist are two different things. As the custodian of these systems she has the responsibility of ensuring that the end-users are properly trained and informed of what is available and not. The respondents from the provincial offices depend entirely upon Co-NG and therefore what they know should be developed and updated by her. This picture illustrates a dire situation of the challenges that are found in the implementation of the firearms control policy. The foregoing comment was a conviction of the researcher up until the second interview with Co-NG. She threw the debate on the EFRS and the management thereof squarely into CFCR. According to her, CFCR should manage the information on the system and ensure that the DFO has access to same. She mention state department 316 which is part of the EFRS wherein information of firearms belonging to deceased persons should be kept and managed. From her recommendation one gets a sense that there is no one specifically assigned to manage the state department 316 and until then things will remain desperate.

4.2.4 Enforcement and Compliance

4.2.4.1 Enforcement

This theme emerged from the literature review as the most crucial step in the implementation of the firearms control policy. Enforcement and compliance are vital cogs in the implementation phase of any policy. It was indicated in the chapter three that the firearms control policy has two primary role players, being the SAPS and DJ&CD. However the primary responsibility for enforcement of the firearms control policy lies with the SAPS while the Master of the High Court only plays a supporting role.

Policies are meant to facilitate specific societal satisfaction and it could only be through enforcement and compliance that such would be realised. Enforcement as a concept will not help unless supported by sound implementation strategy. Co-TG has conceded that their strategy only focused on putting in place systems whose efficiency was never monitored and evaluated. Co-TG stated that:

"Well we do not have a strategy that is specifically dealing with deceased's estates.....you see what we did was to deal with all aspects of the Act gradually and according to their priorities. We have said many times that this particular matter is also important and we issued a National Instruction to the provinces and

stations giving them guidance how to deal with deceased estates. There is no system that monitors how this issue is dealt with and we do not have a status report".

Enforcement can only have the desired impact when there are relevant tools to facilitate same. Because policies have both internal and external clients, such tools should cater for both diverse populations. For the purpose of this study, internal clients would be the DFO's who are responsible for the implementation of the firearms control policy while external clients would refer to the general public with specific focus on the firearms owners and their next of kin. The latter will be addressed in the following discussion. Enforcement would depend entirely on a sound strategy, systems, processes and procedures, adequate resources and a monitoring and evaluation exercise. Of the four respondents from SAPS three are doubtful whether the systems, processes and procedures in place are in fact effective. This worrying situation is captured in some of the responses as follows:

"The DFO at station level does not have direct access to such information which makes it impossible to implement this policy at that level. In order to have this information the DFO will have to request it from the Registrar of firearms….currently this process is not managed at all, as soon as the system shows that an individual is deceased the application is cancelled and that is the end" " (LCo-IS).

*"DFO's do not have access to generic requests for data relating to geographic areas or time frames" (*Co-CP)

"Information is not readily available especially to the DFO at station level. Written request must first be submitted to TMS before such can be provided….ja well it is not helping us in managing such firearms and yes they are a serious issue and must be attended to sooner than later" (Co-TG).

The foregoing two responses are in direct contrast with Co-NG's response which says: *The Firearm Register System/Enhanced Firearms Register is updated with deceased dates of persons on a monthly basis by means of the interface with the Population Register utilized by Home Affairs. All registered and active system users have access to an enquiry function to determine the mortality status of a person".*

The contradiction seems persistent throughout the responses from the SAPS members especially between respondent Co-NG and Co-TG, Co-CP and LCo-IS. The current state of affairs where the internal clients are doubtful of their own situation then enforcement cannot be said to be effective if it is happening. Up until the second interview with Co-NG it was convincing that there were contradictions among the interviewees. In her

second interview Co-NG clarified the issue of EFRS and the information stored there in as well as who is responsible for such.

The second role player in the implementation of the firearms control policy is the Master of the High Court office which administers the deceased estates especially if a firearm is one of the assets. The situation at the Master's office is worrisome if looked into the context of the firearms control policy. This office was thought of as an extension of the SAPS in terms of enforcing the firearms control policy however from the interview conducted the situation is not about to get any better. Explaining the processes within their office AM-KS said:

"……. having asked that question though we don't ask for proof from the applicant whether such firearms were indeed handed in….to be very honest I don't think the Master (including the whole Department of Justice are not necessarily aware of the firearms control act…"

4.2.4.2 Compliance

From the literature review it emerged that compliance to the firearms control policy was a challenge. This has also been corroborated by the three respondents from the SAPS when they indicated that the renewal process of firearm licences was not possible because of the court case that some section of society lodged with the court. In chapter two it was shown civil disobedience is likely to happen if people think that something that the government has done is illegitimate. This non-compliance to the firearms control policy by especially the proponents of the firearms ownership such as the SAHGCA and SAGOA is surely a challenge to the effective implementation of the policy.

It was demonstrated in the literature review that this stalemate makes it impossible for the SAPS to know if firearm owners did not renew their licences because of the court case or whether they have died. This is also made difficult by the confusing situation of the linkage between systems and the lack of vital information on dead persons who owned firearms. The other factor that plays a crucial role in the compliance to the firearms control policy is the knowledge possessed by the general public especially the next of kin of the deceased firearm owners. The level of knowledge will also determine the extent of

compliance or non-compliance by this category of people. The four respondents are all in agreement that families of deceased firearms owners are not aware of the requirement of the firearms control act when such firearms have to be disposed of.

AM-KS had this to say:

"Clueless, zero and that is so dangerous because of the fact that the level is so low and because the customary orientation or behaviour where people would tell who must get what…. it is prevalent among black people as opposed to whites who have been exposed to the laws regulating firearms".

LCo-IS had this to say:

"Currently the next of kin have no role at all and I think the cause for this is because people do not know their role especially within certain communities where the level of illiteracy is very high. On a number of occasions people have been found with firearms whose owners have passed away long ago and they did not know what to do with them".

4.2.5 Challenges and Recommendations

From the literature review as discussed in chapter two, as well as the interviews conducted, it is apparent that the firearms control policy had to face a number of challenges towards its implementation. These challenges have showed to be dimensional ranging from within the SAPS itself to the external environment. The challenges are both at the level of enforcement and compliance. The five prominent challenges are categorised as follows:

- Poor and/or lack of implementation strategy on estates firearms
- Inaccessible information by the DFO
- Poor Inter-Departmental Relations
- Insufficient Out-reach and Awareness Raising
- Monitoring and Evaluation

Strategies were put in place and resources procured that were worth millions of rand in order to have the firearms control policy implemented. At that point in time, violent crime was a priority of government and this policy was seen as a perfect opportunity to address the problem of crime. That concern is still prevalent even to date and therefore the successful implementation of the firearms control policy should still be a priority for government. The recent efforts by the Minister of Police of sanctioning a turn-around strategy is applauded, however it has proven to be narrow in its scope and essentially excluded many implementation concerns including the management of the firearms of deceased persons. Among others the respondents have had to state their recommendations which are captured as follows:

"I think there is a need for a meeting or may be a committee that will draft a directive.... a policy that enables co-operation between the two departments. We also have to look into the systems applied by the Master in order to align ours with theirs" (Co-TG).

"This process should be made a priority by the Registrar. A sub-section should be created to specifically deal with this process whereby deceased addresses will be visited to ensure compliance....." (LCo-IS).

"My opinion is that as the Master's office we need a direction that will guide us in the future.....maybe we should come together as stakeholders so that we can also contribute towards the efficient implementation of the firearm control act"(AM-KS).

As soon as the Executor is notified of a deceased estate, he must contact his local DFO to ask if the deceased person do possess any firearms. The executor, then report the Death to the DFO and CFCR and he must then take possession of the firearm until a license has been issued to an applicant. The Master must not finalize the estate until the firearms has been licensed. There must be proper communication between the CFCR, DFO, Executor and the master of the high court. An addition on the firearm computer system, accessible to DFO to report such estates, can be of great help to regulate such firearms"(Co-DK).

"Estate firearms are kept by family of deceased or next of kin unlawfully whereby they end up in commission of crime. Such firearm licenses are not renewed…. Firearm Act is amended by compelling the executor to inform the DFO of such firearm and also to Home Affair Officials to inform DFO of such firearms only if both systems are linked. Upgrade the system to accommodate the needs of users and the Management Report System."(Co-PM).

CFCR must appoint dedicated personnel to investigate the list of all deceased firearms owners, provided to CFR on monthly basis. A dedicated team (CFCR) must ensure that all firearms registered to deceased persons must be registered to State Department 316 and licenced to the new owners. There must also be

dedicated personnel that must enforce Regulation 103 regarding duties of the nominated executor of the will or insolvent estate. In terms of Reg 103, the CFR must receive information of the appointment of the executor within 14 days and acknowledge receipt of such appointment within 30 days. With the development of the FCS the system will provide more effective control and the complete process of deceased estates"(Co-NG).

In chapter six the study will further elaborate on the recommendations in a broader context.

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CHAPTER FIVE: DATA ANALYSIS

5.1 Introduction

This study had investigated the challenges that negate the implementation of the firearms control policy and the direction for this research was always taking cues from the questions. The journey of discovering answers to these questions assumed three phases, namely **Literature Review, Methods and Designs Application and lastly Data Collection and Analyses**.

In the literature review the search evolved under the themes that were primarily focussing on problem statement, the purpose of the study and the research questions. In brief, many sources that were consulted are in agreement that policy implementation is inherently infested with challenges that vary from one environment to the next.

In the chapter on research methodology, aspects of methods, designs, population and sampling, data collection methods, ethical issues, validity and reliability were discussed. This chapter provided a blue print for the study. Because the method used in this study is qualitative, the research has been exciting in that as themes emerged, the methodology kept on adjusting as well. Because of the further probe and inclusion of additional respondents, data collection method had to change to respond to the need at the time. Because of the time factor, the one-on-one interviews with additional respondents had to be done telephonically.

Data collected which had been presented in the previous chapter 4, in many instances corroborated some information presented in the literature review with regard to the challenges that are prevalent in all policies. The nature of qualitative research does not claim that its findings would be generalizable to the broader population of the research. However that does not necessarily mean that such researches are invalid. Six respondents were initially earmarked for interview however only five availed themselves. Even though the researcher was hopeful that there would not be any challenges in accessing relevant respondents as well as related data, it actually proved challenging.

The CFCR is a component of the SAPS that is mandated with the task of implementing the firearms control policy from head office level. This component underwent change in management four times during the years 2000, 2004, 2009 and 2010. The management that had started with the implementation of the firearms control policy in 2004 were not available for the purpose of the research. Co-TG is one of the people removed from that environment and it was difficult tracing and interviewing him. One of the current managers at CFCR who would have provided inestimable information could not be available on request. What is happening at CFCR could be referred as a closed book as a perspective from there was not forth coming. However one respondent who was interviewed is situated at head office and is the manager of the firearms registration systems, although attached to TMS, a separate component from CFCR. Her information did provide a glimpse of a likely situation at CFCR since her component is responsible for systems that the former component is using for the implementation of the firearms control policy.

The DFO's at provincial and station level are the end-user of these systems hence it was also appropriate that respondents from those levels be considered for this research. As indicated in the research methodology only respondents from the provincial level were considered because of the limited nature of this study. The researcher's initial view was that a perspective from the three major provinces of Gauteng, Kwa-Zulu Natal and the Western Cape would provide a broader operating scope since they account for a larger percentage of individual firearm ownership in the country. However because of some contrasting views that emerged from the interviews, the researcher sought views from other provinces. One respondent each from provinces were interviewed.

Questions that were posed to the respondents were constructed mainly under the following themes:

- Role of Political Leadership in the implementation of the firearms control policy;
- Role of Management in the implementation of the firearms control policy;
- Inter-Departmental System Linkage
- Enforcement and Compliance

- Challenges and Recommendations

5.1.1 Organizations and Political Support in the Implementation of Policy

Two respondents (Co-TG and LCo-IS) were in agreement that the political leadership has the responsibility for policy development and a role to play in the implementation of such a policy. A theme that came out strongly from the two respondents was that there should be support that included **monitoring and assessing the performance** of the firearms control policy, something that was apparently lacking.

The life cycle of a policy will not be complete if the monitoring and evaluation element is not forming part of the implementation strategy. The Ministry of Police's role apparently ended with the drafting of the policy and the allocation of a budget for its implementation. It was then seen recently perhaps responding to the outcry from the proponents of firearm ownership. Respondents Co-TG, Co-CP and LCo-IS mentioned a turn-around strategy that the Minister implemented apparently after realising that the policy was performing badly. The Management's responsibility in the implementation of the firearms control policy flows from the Minister's role. In the next discussion this assertion is explored further.

5.1.2 Role of Management in the Implementation of the Firearms Control Policy

The relationship between the foregoing theme and this current one is intertwined and overlaps in many instances. The focus however in this respect is internal. The management of the SAPS has the responsibility of implementing the firearms control policy, this it has done as indicated by Co-TG by developing a strategy and also issuing a national instruction that dealt with the processes of managing the firearms of deceased persons. It has come out clearly though, from the three respondents, namely Co-TG, Co-CP and LCo-IS that the SAPS did not have a system in place that guides and monitors the performance of the firearms control policy. Once again **monitoring and evaluation** emerged strongly from data presentation.

5.1.3 Inter-Departmental System Linkage and Co-Operative Government

Flow of information is crucial in decision making and this can be made possible by well-designed and sound systems. It has been demonstrated in chapter two that in today's business operations it is important to establish partnerships. The SAPS, in its endeavour to implement the firearms control policy especially the management of the firearms of deceased persons, had to forge relations with Department of Home Affairs (DHA) and the Master of the High Court (MHC). The only established systems according to the respondents interviewed are between the SAPS and the Department of Home Affairs (DHA). Of concern though is that it became apparent that there was no consensus among the respondents from the SAPS about the functioning of the EFRS. It was also not clear whether the DFO at station level has access to this system or not. In this current state the SAPS cannot be in a position to manage the firearms control policy especially the management of the firearms of deceased persons. The theme that emerges strongly is a **poorly managed system** coupled with **insufficient delegation of authority** to the DFO.

5.1.4 Enforcement and Compliance

For a policy to realise its intended objectives it must be practical to enable enforcement and compliance. Monitoring and evaluation would not mean enforcement but the measurement of both enforcement and compliance. In theory, compliance should be a natural outflow of every policy. However, as demonstrated in the literature review non-compliance to policies is a likely occurrence. Because non-compliance is an inherent challenge to policy implementation then enforcement should be a parallel strategy to ensure compliance. For enforcement to take place, a strategy that designs systems, processes and procedures should be developed. Naturally strategies in the SAPS are drafted at head office level. Only one respondent namely Co-TG who was attached to CFCR before being moved gave an indication of what happened during the early stages of the firearms control policy. It was clear from his assertion that despite all the measures put in place, there was still a lot to be done to better the systems already in place to enhance implementation. This concern has come in the face of denial from Co-NG that the current systems are providing the necessary information. The respondents from the

provincial level seem to be in agreement with Co-TG that the systems in place are not assisting the DFO at station level. It was indicated earlier in chapter 4 that the DFO's at station level are the ones who are responsible for managing the firearms of deceased persons. This they would do after receiving information of the death of a person who owned a firearm, to ensure that the appointed executor, curator or administrator comply with the requirements of the FCA. Since this valuable information is hard to come by the DFO's cannot be expected to manage the firearms left by deceased persons.

In the same vein, compliance is not likely to be realised as the challenges of court cases are looming. This incident could have resulted from the relevant society's view that certain provisions of the FCA are unconstitutional and therefore cannot be complied with. **Enforcement and Compliance** are emerging strongly as the challenges that impede fluent implementation of the firearms control policy.

5.1.5 Challenges

In chapter two (2) the researcher identified themes for discussion in view of investigating the challenges that the firearms control policy was confronted with. The major themes that were discussed included the following:

5.1.5.1 The Role of Political Leadership in the Iimplementation of the firearms control policy

The Ministry of Police had played its role in ensuring the passing of the firearms control Bill and to some extent allocated the required funds for its implementation. Seemingly that was the office's last role up until when it had to intervene to calm down the uprising by firearm owners associations. All respondents noticed this lack of action from the Ministry's side. In a sense some were mostly unaware of the Ministry's role in the implementation of the firearms control policy. By its very nature the Ministry's role in the implementation of the firearms control policy is limited. Parliament as the passer of laws has created institutions to ensure the implementation of the same laws. The role of these institutions will be discussed later in this chapter. The theme that emerges here is **monitoring and evaluation**.

5.1.5.2 The Role of Management in Policy Implementation

Management decides on a strategy to be employed in the implementation of a policy. In order to put the strategy into operation structures, systems, processes and procedures and the resources should be put in place. These things were apparently allocated for that purpose. Data collected demonstrated that there were more than one model, namely the FRC and the EPS employed to implement the firearms control policy. The former model was abandoned later on. Secondly the systems put in place have been proven to be incongruent thereby unable to produce the necessary information required to manage and control the firearms left by deceased persons. Furthermore the management of these systems is confusing. The respondents mentioned that beside TMS there is also SITA that seems to co-manage these systems something that Co-NG could not confirm or deny. This dual responsibility negates the flow of information to disturbing proportions. In essence this arrangement defeats the purpose of the FCA. The theme that emerges is **poor management of systems.** This negates enforcement of this policy.

5.1.5.3 Inter-Departmental Systems Linkage and Co-Operative Government

Forging of partnerships has become a norm not only within the business sector but also within the public sector. The nature and scope of the firearms control policy dictates that the SAPS should be in consultation with other state department. It has been demonstrated in chapter two that co-operation is paramount. The EFRS is the system developed for the purpose of keeping data on firearm owners. Further to this, the system should also be able to provide information of those who died. It is undisputed that the DHA do provide information of dead firearm owners to the SAPS through its own system which according to Co-NG is interfaced with the EFRS. The transmission and accessing of this information is the issue of concern. The theme that emerges from this discussion is the **poorly managed system.** This negates enforcement of this policy as well.

5.1.5.4 The Next-of-Kin in the Management of Estate Firearms

Compliance goes hand in hand with enforcement. This was sufficiently demonstrated in the previous discussions. In the instance of non-compliance then enforcement should be expedited. Where systems and processes and procedures are in place and have been proven to be effective, compliance is most likely to happen. In the absence of these or in instances where such are existing but in effective, then compliance is unlikely. The next of kin of deceased firearm owners have an important role to play in assisting the SAPS in managing and controlling firearms involved in the estate. That most of these people are not aware of their responsibility when it comes to dealing with estates firearms or that some customs are taking precedence over the requirements of the FCA is cause for concern. The theme that emerges is **Insufficient Out-reach and Awareness Raising** about the firearms control policy goals.

5.1.5.5 Insufficient and or Lack of Oversight and Monitoring

There are institutions that were established for the purposes of ensuring policy implementation by performing monitoring and evaluation function from various levels. In the context of this study these functions are supposed to be performed by the Portfolio Committee on Police and the Secretariat for the Police. In chapter two, this study demonstrated how handicapped these institutions have been, especially the latter one. The SAPS internal monitoring and evaluation mechanism could not be traced, as well as it was highlighted in the Civilian Secretariat for the Police Report, 2010. The turn-around strategy by the Minister could be seen as damage control in the absence of these mechanisms. The theme that emerges here as well is **monitoring and evaluation**.

CHAPTER SIX: CONCLUSION AND RECOMMENDATIONS

6.1 Introduction

The purpose of this research has been to investigate the challenges that are inherent in the implementation of the firearms control policy within the South African Police Service and Department of Justice & Constitutional Development (Master of the High Court). The research was undertaken from the premise of the problem of lack of management and control of the firearms left by deceased persons. The vehicle used for this journey was in the form of the following questions: what are the challenges inherent in the implementation of the firearms control policy? And what are the mechanisms available for the implementation of the firearms control policy?

The research was of a limited scope and involved few respondents from whom the findings cannot be claimed to apply across the broader spectrum of the population that provided a sample.

6.2 Conclusion

From the exercise of analysing data, five critical areas emerged upon which the recommendations will be founded. A number of areas of concern emerged, however the research will focus on only the five so identified.

6.2.1 Monitoring and Evaluation

It has been demonstrated that the demise of the firearms control policy has been due to, among others, the lack of monitoring and evaluation on how it has been performing. This omission was traced across all levels from the political level to the administrative and managerial level. At political level the Portfolio Committee on Police as well as the Secretariat for the Police over and above their responsibility of developing policies they also must monitor and evaluate the performance of such policies. The intervention of a turn-around strategy could be seen as a late attempt to save the policy as there is a stalemate already with the court order.

At administrative and management level, the SAPS has a Division specifically meant to perform monitoring and evaluation services whose scope of work encompasses all service delivery issues. In the context of this research, its responsibility would have been the monitoring and evaluation of systems, processes and procedures designed for the implementation of the firearms control policy. Of all the measures put in place for the function of monitoring and evaluation it is clearly a matter that is yet to be given a serious thought.

Monitoring and Evaluation is not a challenge to the implementation of the firearms control policy in itself, but a means to identify and address the challenges.

6.2.2 Poorly Managed Systems coupled with Unavailability of Information

Information management is of paramount importance for the functionality of every institution. Prompt and swift response to the service delivery needs is what distinguishes the best institutions from the rest. In this day and age technology has become a necessity especially for information management. Every output has its end-user in the same way that information generated by a system should have. The SAPS developed the EFRS as a means to generate information and keep data of firearm owners and their firearms for the primary purpose of managing and controlling same.

Interface of systems across borders has become a global trend. This is simply because of what is termed stakeholder partnership. The EFRS is said to interface with the DHA population register, a matter that is not convincingly articulated in the data collected. Once again information generated from these systems is apparently not immediately available to the DFO at station level. Information of deceased firearm owners is fundamental to the management and control of such firearms. From the data collected this information is being generated from various sources namely the DHA and the office of the Master of the High Court. For the latter source the information on deceased persons who owned firearms and the whereabouts of such firearms is a matter that is on the periphery of their core functions. There is neither a system nor the transference of such information to the SAPS as it is a requirement in terms of the FCA. Once again the

partnership between the SAPS and the DJ & CD is apparently non-existent, a matter of concern indeed. Policy interface is a fundamental principle of policy development to ensure that there is a complimentary element and synergy in the achievement of objectives. The ignorance of this principle breeds individualism and fragmentation which lead to duplication, time-consuming efforts and inefficiency.

6.2.3 Insufficient Out-reach and Awareness Raising

The realisation of policy objectives has two basic principles to it and that would be enforcement and compliance. In this context enforcement of the firearms control policy is the responsibility of the SAPS while the public in general, especially the next of kin of the deceased firearm owners, and the institutions that normally assume the role of being administrators, executors or curators of the deceased estates should comply.

The ordinary members of the public are unlikely to participate in the policy development exercise although they would be expected to abide and comply with the prescripts of such policies. The major challenge has been how the enforcement agencies are making sure that information pertaining to compliance by such public members is sufficiently made known. The conventional means of passing information to the public does not seem to work as it is seen in the non-compliance cases that are seen in the implementation of the firearms control policy. The historical and customary background of various ethnic groupings has proven to be a barrier to the reception of modern ways of governance; a fact that should emphasise reviewed ways of communicating policy information.

6.2.4 Enforcement

In the midst of such a huge blanket naïve lack of knowledge, enforcement will remain an elusive dream. A policy that cannot be enforceable is as good as having none. This coupled with other challenges that the implementation of the firearms control policy has come across, its relevance is likely to disappear into oblivion. Apparently, only certain of its provisions are enforceable and compliance is also apparently voluntary. The problem that this research has identified cannot be addressed under the current conditions. The firearms control policy was a means by government to respond to the violent crime

perpetuated by means of firearms against the people in this country especially the vulnerable groups. This risk threatens Human Security which the government cannot afford to allow continuing unabated.

6.3 Recommendations

Part of the purpose of this study has been to make a contribution towards policy change and this would be through the following recommendations:

6.3.1 At the Level of the SAPS

6.3.1.1 Monitoring and Evaluation

It would only be in a perfect situation that systems, processes and procedures will be self-monitoring and self-sustainable. The principle of good governance requires that institutions put in place control mechanisms that will ensure that deviating conduct is identified immediately and dealt with swiftly. The researcher recommends that the "Inter-Agency Co-creation Model depicted in figure 1 below be adopted as a system that will facilitate monitoring and accountability on all issues related to the estate firearms.

6.3.1.2 Poorly Managed Systems coupled with Unavailability of Information

The generation and availability of information of deceased firearm owners cannot be overemphasised. In keeping with the purpose of the FCA of preventing the proliferation of firearms, accurate information should be generated and made available to the end-user, the DFO, at the most opportune time.

The researcher recommends that further research be undertaken to investigate the design of the EFRS and the DFO model.

6.3.1.3 Insufficient Out-reach and Awareness Raising

Communication is capable of transcending all imagined barriers as long as it becomes a sustained exercise that runs parallel to the set purpose aligned to the desired goal.

The researcher recommends that a communication strategy that incorporates education and awareness be developed in order to enlighten firearm owners and their next of kin as well as the institutions that administer deceased estates.

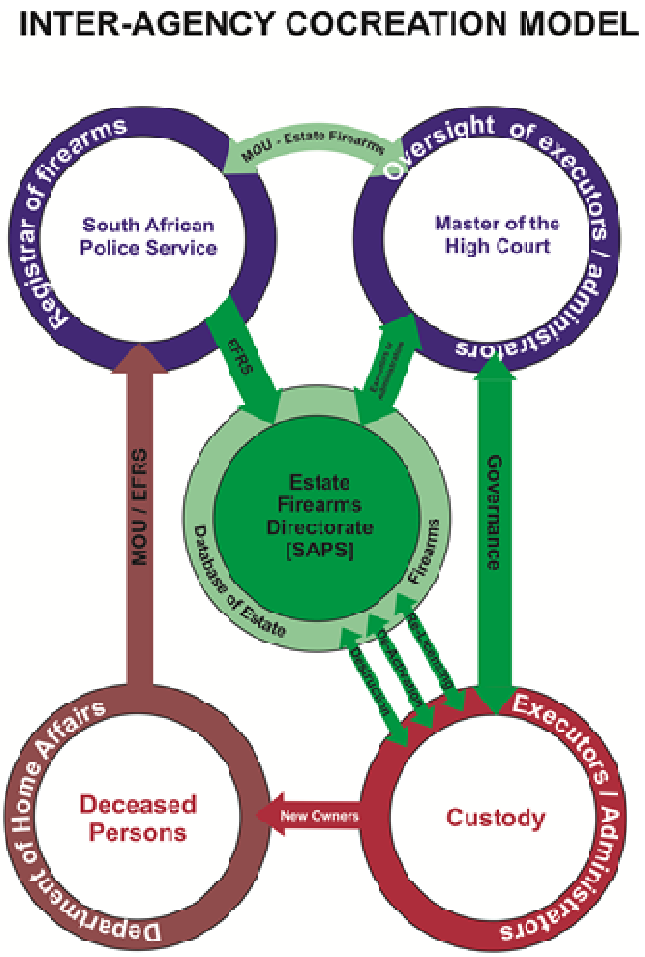
6.3.1.4 Enforcement

Through the proper management and control of firearms of deceased persons, the FCA will realise its purpose. This objective can only be achieved through a multi-disciplinary approach that includes the SAPS, the DHA and DJ &CD (Masters of the High Court) as well as the Administrators of Estates. Currently this is not done.

The researcher recommends that Inter-Departmental Committee on Deceased Estates be established that will resort under the auspices of the SAPS, simply because the responsibility to enforce the FCA lies with them. The researcher recommends that the inter-departmental committee follow the proposed "Inter-Agency Co-creation Model" as depicted in figure 1 below. This model will serve as a platform for other external role players to assist in the control of estate firearms.

6.3.2 At the Level of the Master of the High Court

- Keep and maintain a database of all appointed executors/ and or administrators.
- Forward a return of all executors and or administrators of assets where firearms are also included to the SAPS.
- Exercise continuous oversight on the appointed executors and or administrators to ensure accountability on the assets being managed.



Source : Own

Diagram1. Inter-Agency Co-creation Model proposed for addressing the challenges identified in the study.

Various legislations were created in view of regulating firearms as part of deceased estates and these resorts under two departments, namely the SAPS and DJ & CD. This study has revealed that there is clearly no partnership among all role players particularly between the SAPS and the DJ & CD (MHC) and the Executors/ Administrators on the other hand. The SAPS as well, have internal challenges. The component that manages the EFRS is not under the direct control of CFCR, whom should be managing information that is embodied in the system. The model will fill the vacuum that apparently exists among all the role players and reinforce the relationship that can facilitate the efficient management and control of estate firearms.

6.3.2 Suggestions for further Research

Because of the limitations in the study, serious underlying challenges could not be investigated. It is of paramount importance that such should be brought to the surface so that means of addressing them could begin. The following are propositions for future research:

- A quantitative study be done on the same topic;
- The management of the EFRS and its impact on the implementation of the FCA;

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APPENDIX

RESEARCH QUESTIONS

CFCR/ TMS	PROVINCES	MASTER OF THE HIGH COURT
1. What is the role of political leadership in the implementation of the firearms control policy?	1. What is the role of political leadership and management at provincial level in the implementation of the firearms control policy?	1. What systems are applicable in the management of estates including firearms?
2. What is the role of management at national level in the implementation of the firearms control policy?	2. What is the nature of authority at provincial level in the management and control of Estate Firearms?	2. Is the Master's office keeping and maintaining a database of Estates Firearms?
3. How is the CFCR structured and what are the allocated responsibilities?	3. How is the province structured within the firearm environment and what are the allocated responsibilities?	3. What is the extent of the Master's knowledge of the Firearms Control Act, 2000 in relation to Estates Firearms?
4. What are the systems available for the implementation of the firearms control policy and how effective and efficient are they?	4. What is the Provincial Strategy on the management and control of Estates Firearms?	4. What happens to the Estates Firearms once the winding of the estates have been finalised?
5. How is information on deceased firearm owners generated and who is responsible for that?	5. How is your Province sourcing information on deceased persons who owned firearms?	5. What is the Master's view of the control of firearms in SA and what role are you playing?
6. Which are other Government departments that are assisting the SAPS in the management and control of Estate Firearms and how are they assisting?	6. Besides the EFRS what other means that the DFO can use to generate information on deceased firearm owners?	6. In the Master's view what is the level of knowledge of the next-of-kin of the requirements of the Firearms Control Act, 2000 with regard to Estates Firearms?
7. What is the current number of Estate Firearms on the system and what happened to those which could not be physically traced?	7. Are the DFO's or police stations being informed of the appointed Executor/ Administrator by the office of the Master of the High Court?	7. What is the nature of relationship between the SAPS and the Master's office?

APPENDIX

RESEARCH QUESTIONS

CFCR/ TMS	PROVINCES	MASTER OF THE HIGH COURT
8. What are the challenges inherent in the management and control of Estate Firearms?	8. How are the Estates Firearms dealt with in your province and who takes control of the firearm/s until the estate has been finalised?	8. What do you think could be done to better and improve the current situation?
9. What recommendations can you make to improve on the current situation?	9. What are the pre-requisites for the Executor/ Administrator before they can take possession of Estates Firearms and what is the situation if they don't meet such requirements?	
	10. What are the challenges in the systems and processes designed for managing and controlling Estates Firearms?	
	11. What recommendations can you make to improve on the current situation?	

APPENDIX

SAP 21

SUID-AFRIKAANSE POLISIEDIENS

SOUTH AFRICAN POLICE SERVICE

Privaatsak/Private Bag X540
Posbus/ Post Office Box

Verwysing Reference	3/1/8/5/1
Navrae Enquiries	Lt Maj. LA Mothiba Lt Col L Erasmus
Telefoon Telephone	(012) 421-8001 (012) 421 8107
Faksnommer Fax number	(012) 421-8011 (012) 421 8282

DIVISIONAL COMMISSIONER
DIVISION: VISIBLE POLICING
PRETORIA
0001

2012-11-6

A. The Component Head
Strategic Management
SOUTH AFRICAN POLICE SERVICE
Pretoria
0001

FEEDBACK: RESEARCH REQUEST: IMPLEMENTATION OF THE FIREARMS CONTROL POLICY IN THE MANAGEMENT OF FIREARMS OF DECEASED PERSONS: RESEARCHER: COL LJ MABULE

1. This office concurs that the research in terms of National Instruction 1 of 2006 continues.
2. Maj. General B Luke, Component Head: Firearm, Liquor and Second Hand Goods, gave approval for the interviews as requested by Col JL Mabule.
3. Maj. General B Luke's office should however be informed of the dates when meetings will take place in the various Provinces.
4. Regards.

Kind regards

LIEUTENANT GENERAL
DIVISIONAL COMMISSIONER: VISIBLE POLICING
LA MOTHIBA

Date: 2012 -11- 0 6

APPENDIX



the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

MASTER OF THE HIGH COURT: JOHANNESBURG

Private Bag X 5, JOHANNESBURG, 2000 •No 66 MARSHALL STREET MARSHALLTOWN JOHANNESBURG
Tel (011) 429 8005/4, Fax (086) 679 63

Our Ref : L. Pule **Your Ref : 492200**

MEESTER VAN DIE SUID GAUTENG HOOGGEREGSHOF
PRIVAATSAK/PRIVATE BAG X5
2012 -12- 14
MARSHALLTOWN 2107
MASTER OF THE SOUTH GAUTENG HIGH COURT (19)

To : Mr Lucky J Mabule

Per email : Mabule@vodamail.co.za

RE : REQUEST FOR PERMISSION TO CONDUCT RESEARCH

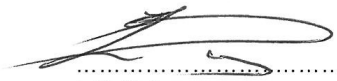
Dear Sir

With reference to the above matter,

Permission is hereby granted to conduct research within my office, Master of the South Gauteng High Court Johannesburg.

Please liaise with Ms N Mndebele at Nmndebele@justice.gov.za, Tel (011)429 8137 for further assistance in this regard.

Yours Faithfully



.....

L.K. Pule
Master
(South Gauteng High Court, Johannesburg)