

19 November 2020

## Supplementary Question 1 from evidence on 28 October 2020

### Question (Uncorrected Transcript)

**Mr DAVID SHOEBRIDGE:** Mr Bendle, could I ask you on notice to have a look at—I think the Chair raised it with the deputy commissioner—the South Australian provisions involving the manufacture of firearms, firearms parts and the like? On notice, could you have a look at section 37 (3) of the South Australian Firearms Act 2015 and section 37 (4) of that Act? Section 37 (3) provides that the manufacturing offences do not apply to:

(a) the manufacture by a person of a firearm or firearm part in accordance with a licence held by the person ...

That seems fairly uncontroversial. But section 37 (4) states:

(4) It is a defence to a charge of an offence— under the substantive provision if they can—

prove that, in the case of a firearm part—

(a) the firearm part was for a firearm registered in the name of the person who manufactured the firearm part ...

I ask that you have a close look at that, Mr Bendle, and then provide the Committee your response. I think you have 21 days.

**Mr BENDLE:** Okay. We can do that. Thank you. I was not aware of that particular clause, but we can follow that up and respond accordingly.

**Mr DAVID SHOEBRIDGE:** Including whether or not, if that section 37 (4) defence was to be put into the bill, it was appropriate to limit it to the replacement of a broken or defective part, so as you do not have a sort of "open window" to just manufacture endless parts but it is for the replacement of a broken or defective part.

**Mr BENDLE:** Yes, I understand.

**Mr DAVID SHOEBRIDGE:** I am not asking—if you have an opinion now by all means give it, but it might be better to go and have a look at it and come back with a considered view on it.

**Mr BENDLE:** I will do that, rather than comment at the moment before reading it.

## Answer

### Regarding Clause 37(3)(a)

In our opinion, the proposed NSW *Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020* seems to be clearer than the *South Australian Firearms Act 2015* about the type of license required to legally manufacture or modify a firearm or firearm part.

### Regarding Clause 37(4)(a)

We have a concern that *South Australian Firearms Act 2015* Clause 37(4)(a) enables any person with a registered firearm to manufacture a firearm part for their firearm. In my evidence, the Chair agreed that that should not happen. (Uncorrected Transcript p25)

**Mr BENDLE:** Mr Chairman, my understanding is that the bill allows for those authorised and licensed firearm owners and users to continue their business. So I do not believe that there should be exemptions for someone who owns a firearm to be able to do something outside the framework, which enables others to do that appropriately. **I do not see any reason for exemptions just because someone owns a firearm that they would be able to manufacture parts or a firearm.**

**The CHAIR:** Yes, but with due respect, that is not my question. **We do not believe that should happen either.**

The inherent risks of guns require the utmost care with any repair or modification. In the interest of public safety, we believe that the manufacture of a firearm or a firearm part for a particular firearm should only be done by experienced, professional, authorised, and licensed operators.

We understand that there is likely to be a very small number of experienced firearm owners who may well be able to do this safely. However, the vast majority covered by this legislation do not have the skills to manufacture parts for their firearms and it would be dangerous for them to do so.

The legislation must accommodate the majority of those it aims to cover.

We would think those with an interest in repairing, manufacturing, or modifying parts for their firearms should either use authorised operators, or seek the proper authorisation through the current licensing framework.

## South Australia Firearms Act 2015<sup>1</sup>

### Part 7—Prohibited practices relating to firearms and ammunition

#### 37—Manufacture of firearms, firearm parts or sound moderators

37(3) Subsection (1) does not apply to—

- (a) the manufacture by a person of a firearm or firearm part in accordance with a licence held by the person; or
- (b) the manufacture by a person of a sound moderator with the written approval of the Registrar, provided the person complies with any limitations or conditions prescribed by the regulations or imposed by the Registrar.

37(4) It is a defence to a charge of an offence under subsection (1) or (2) to prove that, in the case of a firearm part—

- (a) the firearm part was for a firearm registered in the name of the person who manufactured the firearm part; or
- (b) —
  - (i) the firearm part was for a firearm registered in the name of a company of which the person who manufactured the firearm part was an officer or employee; and
  - (ii) the officer or employee was the holder of a licence authorising possession of the firearm; and
- (iii) the firearm part was manufactured by the officer or employee in the course of his or her duties as an officer or employee of the company.

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<sup>1</sup> Extracted from <https://www.legislation.sa.gov.au/LZ/C/A/Firearms%20Act%202015.aspx> on 7 Nov 2020

19 November 2020

## Supplementary Question 2 from evidence on 28 October 2020

### Question (Uncorrected Transcript)

**The CHAIR:** Mr Bendle, the Australian Medical Association [AMA] is a supporter of your organisation, is that correct?

**Mr BENDLE:** Sorry?

**The CHAIR:** The Australian Medical Association.

**Mr BENDLE:** Correct.

**The CHAIR:** In a media release announcing the formation of your organisation in 2018 the AMA president at the time, Dr Bartone, stated, "most gun-related deaths in Australia are within the families of gun owners." Do you support that statement?

**Mr BENDLE:** Mr Chair, I cannot support it without just reviewing the evidence on that. It would not surprise me, but I have to review the evidence upon which that was based.

**The CHAIR:** That leads to my second question: Can you tell me then, on notice, where the information that informs that—

**The Hon. ROSE JACKSON:** Point of order: I am not entirely sure it is fair for Mr Bendle to answer for the statements of someone else.

**The CHAIR:** I am asking him to research it and then come back.

**Mr DAVID SHOEBRIDGE:** I think Mr Bendle has taken the first point. I think Mr Bendle has indicated that—

**The CHAIR:** It is not quite different to what he was just asked to do in relation to the proposed South Australian amendments.

**Mr DAVID SHOEBRIDGE:** To the point of order: If Mr Bendle wants to provide a position on notice then he is entitled to, but I do not think you can ask Witness A to justify the comments of a third party—in this case, another organisation.

**The CHAIR:** With due respect, the AMA is a key organisation in the structure of this organisation and is a key, I would believe, opinion leader in this organisation.

**The Hon. ROSE JACKSON:** With respect, Mr Chair, if you wish to call the AMA to give evidence to this inquiry, you are entitled to do so.

**The CHAIR:** We might very well do that. You may take that on notice if you so desire, Mr Bendle.

Thank you very much. I note that you have also taken a number of other questions, including mine, on notice. You have 21 days in order to respond and the secretariat will be in contact with you. Thanks very much for attending.

## Answer

Mr Chair, as I commented in my evidence – the statement that most gun-related deaths in Australia are within the families of gun-owners would not surprise me.

A quick review of the Causes of Death in Australia<sup>1</sup> shows 225 firearm related deaths in 2019. One hundred and eighty (80%) were intentional self-harm, 39 (17%) were assault and 6 (3%) were accidental or undetermined.

Homicide data from 2017-18 show there were 75 domestic homicides in Australia<sup>2</sup>. Ninety two percent of domestic homicides were in the victim's home. Gunshot wounds were the 3<sup>rd</sup> most common cause of domestic homicide.

Sixty nine percent of all homicides in 2017-18 were in residential homes.

We accept that the gun culture in the USA is different to Australia, but it is clear that guns in US homes significantly increases the risk of firearm injury, suicide, and homicide<sup>3</sup>.

The data to accurately answer the Chair's question is in the linkages between registered firearms, licensed gun owners and the victims and perpetrators of gun crime. At the moment that data is not published.

In the absence of that, but in the preponderance of evidence that nearly 70% of all homicides occur in homes, 80% of all gun deaths are self-inflicted and gunshots are the 3<sup>rd</sup> most common cause of domestic violence deaths, then the access to firearms in the home or family must be available.

There is no evidence available that those preparing for these tragic events do so by stealing firearms or procuring them from a black market.

Therefore, on the weight of available information, I would fully support the premise that the vast majority of gun-related deaths occur in the families of gun-owners.

However, direct clarification of the statement referred to by the Chair would need to be done with the former AMA President who made the statement.

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<sup>1</sup> <https://www.abs.gov.au/statistics/health/causes-death/causes-death-australia/latest-release>

<sup>2</sup> <https://www.aic.gov.au/publications/sr/sr23>

<sup>3</sup> Hemenway, David. 2004 'Guns in the Home.' Private Guns, Public Health, p. 81. Ann Arbor: The University of Michigan Press. 17 February