

**EVALUATION OF THE INTRODUCTION OF TASMANIAN  
FIREARM CONTROL LEGISLATION: The *Guns Act* 1991**

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**Project funded by the Criminology Research Council  
Project 28/91**

**1 March 1999**

## **ACKNOWLEDGMENTS**

Many people have assisted with this project and I would like to thank them all. Veronica Connolly did the bulk of the painstaking sorting of the Criminal offence and modus operandi reports. Veronica also gathered the information from the hospital records and from the Coroners' records. In the early stages of the project Merrin Mackay and Rachel Murdoch did the data collection. Sue Steinbauer, a statistician at Police Tasmania, provided valuable help with the Police statistical collections. Staff at the Firearms Registry also provided assistance. At the Law School, the secretarial staff and the computing systems officer provided assistance with the tables.

# EVALUATION OF THE INTRODUCTION OF TASMANIAN FIREARM CONTROL LEGISLATION: the *Guns Act 1991*

## 1 INTRODUCTION

### Tasmanian Firearm Control Legislation

Prior to the introduction of the *Guns Act 1991* there was very little in the way of firearms regulation in Tasmania. The *Firearms Act 1932* regulated handguns, requiring the owner of a firearm with a barrel of less than 420 mm to be licensed and the firearm registered. There was no provision for safety testing or training. Access to the use of long guns was virtually unrestricted

There were a number of unsuccessful attempts to introduce legislation regulating the use of long arms prior to the *Guns Act 1991*. The *Guns Amendment Act 1988* required holders or users of automatic firearms to be licensed but it was never proclaimed. In 1990 Dr Bob Brown introduced the *Firearms Control Bill* into the Tasmanian Parliament. This failed to pass. In 1991 the *Guns Bill* was introduced and it was passed in October. In June 1992 the date for proclamation was fixed for 1 January 1993.<sup>1</sup>

The *Guns Act 1991* contained the following provisions:

#### *Licences*

The Act introduced a system of licensing and testing of those wishing to use or possess a gun. To qualify for a gun licence a person had to be 18 years of age, have the relevant gun safety knowledge and be 'a fit and proper person'. In deciding whether a person was 'fit and proper', the Commissioner of Police was required to take into account the likelihood of the person using the gun for an unlawful purpose or to harm himself or herself and, in particular, to take into account any criminal activity of the applicant, his or her mental and physical condition and any restraint order or interim restraint order made in respect of the person.

The following people could not be considered 'fit and proper persons' and were accordingly ineligible to hold a licence: a person sentenced to a term of imprisonment for an offence involving violence; a person convicted of a crime of violence in a period of five years immediately preceding the application; a person convicted of carrying a gun with criminal intent or aggravated assault. A person was also ineligible to obtain a licence or permit if a court order that a person not obtain a licence or order was current. To acquire the required 'gun safety knowledge' an applicant for a gun licence had to attend an approved gun safety training course and pass a written gun handling and knowledge test. The courses did not involve practical instruction in the use of firearms, but were only designed to teach people safety in the use of firearms.

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<sup>1</sup> Statutory Rules 1992, No 71.

Separate licences were provided for security agents and security guards. Such licences authorised agents to possess a pistol as well as long guns. The criteria for holding a licence were the same for gun licences other than the fact that the applicant had to be either a licensed security guard or security agent and the approved course involved gun handling as well as gun safety.

### *Gun dealers*

Under the *Firearms Act 1932* (Tas) pistol dealers required a licence. Under the new legislation, dealers and manufacturers of all guns were required to be licensed. For such a licence, a person, or in the case of a corporation, the people controlling the corporation, had to be 'fit and proper' within the meaning of the Act. Gun dealers were required to keep records in respect of guns purchased or sold. Such records had to be produced to a police officer when required and had to be preserved for six years. It was an offence to 'sell, supply or deliver' a gun or ammunition to a person who was not authorised to have possession of a gun.

### *Permits*

The Act also required holders of a gun licence to hold permits for pistols, fully automatic guns and prohibited guns. To obtain a pistol permit a person had to satisfy the Commissioner that he or she was a member of an approved pistol shooting club, a gun collector, possessed a pistol of special significance as an heirloom or memento, or required the pistol for protection of life or property. Fully automatic gun permits could be granted to gun collectors and could only be used on an approved range. Prohibited guns were defined as 'self loading centre fire rifles other than fully-automatic guns' that had been declared by the Minister to be prohibited. The Act provided that members of an approved rifle club and gun collectors were eligible to apply for a prohibited gun permit.

### *Registration*

Pistols (guns with a barrel length of 410mm or less) had to be registered as a collector's pistol or a user's pistol. There was no authority to use a collector's pistol. Holders of automatic guns and prohibited guns were required to keep a register of all fully automatic guns and prohibited guns in their possession and to allow inspection of the register and guns at any reasonable time. Transfer of ownership of pistols, fully automatic guns and prohibited guns had to be notified to the Commission within a specified period.

### *Safe storage*

Licence holders were required to keep any guns in their possession in a secure place in accordance with the regulations. The Regulations provided that guns must be kept in a secure place either without any ammunition capable of being discharged by the gun or they had to be rendered temporarily inoperable by the removal of part of the firing mechanism. Pistols and firing mechanisms were required to be kept in a locked metal

container or safe, which could not be easily removed from the building. Where more than 20 guns were kept on the same premises, the security requirements were more stringent. The storage and security arrangements for fully automatic guns and prohibited guns required that part of the gun's firing mechanism be removed and kept in a separate secure place.

#### *Use of firearms by people under the age of 18*

To qualify for a gun licence a person had to be at least 18. Recognising that in rural areas some parents instruct their children in the use of firearms, the Act provided that unlicensed people under the age of 18 and over the age of 12 were permitted to use guns under the direct supervision of an adult licence holder.

#### *Cancellation of licences and permits*

The Commissioner had powers to cancel licences and permits in a number of circumstances. Licences or permits had to be cancelled if the holder was no longer qualified to hold them. Pistol permits and prohibited gun permits could be cancelled if the holder did not attend at least the prescribed number of range practices or competitions. Failure to comply with safe storage requirements could result in cancellation of a gun licence or gun dealer's licence. Where a person was convicted of an offence under the Act or of any offence involving violence or the threat of violence, the court had the power to order that any licence or permit be cancelled and that the person should not be granted a licence or permit.

#### *Offences*

A series of new offences was created by the Act. Carrying a gun with criminal intent was made a crime and assault involving a gun was included within the definition of the crime of aggravated assault in the Criminal Code.<sup>2</sup> Possession of a loaded gun in a public place was made an offence<sup>3</sup> and the Act included the offence of discharging a gun over a public place or over private land without authority of the owner.<sup>4</sup> Discharging a gun recklessly or without due care was an offence and possession of a gun while under the influence of alcohol or any other drug was prohibited by s67.

#### *Permanent amnesty*

The Act contained a permanent amnesty by providing that no action was to be taken against a person who voluntarily brought a gun to a police station and surrendered it to the Commissioner.

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<sup>2</sup> *Criminal Code*, s 183 and *Guns Act 1991*, s 48.

<sup>3</sup> The *Criminal Code*, s 78 already had an offence of being armed in public, which has different ingredients.

<sup>4</sup> The *Police Offences Act 1935*, ss 24 and 25 had similar offences.

### *Police powers*

If the police had reasonable grounds to believe that a person in a public place was in possession of a gun, they could require that person to hand the gun to the police officer for examination. For a suspected breach of the Act there was a power to search premises in accordance with a warrant and to search a person or vehicle without a warrant. Where police believed that a person was threatening to use a gun in circumstances where death or injury was likely, there was a power under s78 to enter and search premises and to seize and detain any gun, ammunition or person found on those premises.

### *Transitional provisions*

For one year after the commencement of the Act, a person applying for a gun licence did not have to attend a gun safety training course or pass the written gun handling and knowledge test if they satisfied the Commissioner that, on the date on which the Bill was introduced into Parliament (30 April 1991), they were the owner of a gun other than a pistol. The rationale for the exemption of existing owners from testing was two-fold. First, there was the difficulty of the large number of people involved, estimated to be about 50,000. Secondly, it was thought a large number of existing owners would refuse to apply for a licence if they were required to take a course and test, thus defeating the purpose of the legislation.

### **The aim of the legislation**

In his second reading speech the then Minister for Police and Emergency Services claimed the aim of the system of licensing and training was to reduce deaths from suicides, to reduce the level of violence in homes and in the community, to reduce accidents caused by guns, and to reduce access to guns by undesirable people and people under the age of 18 years.<sup>5</sup> A number of members doubted whether any legislation or registration requirements would have an impact on the suicide or crime rate.<sup>6</sup> For some the legislation did not go far enough. Dr Bob Brown regarded it as but 'a timid step in the right direction'<sup>7</sup> and, with the National Committee on Violence, argued for registration of all firearms as well as licensing. His amendment to the legislation to require registration was defeated. Those opposing the amendment argued it would be a 'bureaucratic nightmare', too costly and had proved to be ineffective elsewhere.<sup>8</sup>

The critics of the legislation who thought it too weak, argued the Act was deficient in the following respects:

- its failure to require a system of registration of all firearms;

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<sup>5</sup> *Parliamentary Debates, House of Assembly*, 18 June 1991, p 1821

<sup>6</sup> For example, Mr Robson said it would 'not be an iota of good', *Parliamentary Debates, House of Assembly*, 18 June 1991, 1836

<sup>7</sup> *Parliamentary Debates, House of Assembly*, 18 June 1991, p 1835.

<sup>8</sup> *Parliamentary Debates, House of Assembly*, 18 June 1991, p 1941 (Dr Madill).

- it did not prohibit all fully automatic guns but it merely restricted fully automatic guns to licence holders who were gun collectors with a permit rather than prohibiting them;
- while it provided a mechanism for the regulation of semi-automatic firearms by empowering the Minister to declare them to be prohibited guns, no semi-automatic guns were declared to be prohibited guns until after the Port Arthur tragedy;
- it did not make 'a good reason' a prerequisite for obtaining a firearm other than a pistol or a fully automatic weapon.

The provisions in the legislation relating to prohibited guns were a response to the Australian Police Ministers' Council Meeting in October 1991 which, following the Strathfield incident in New South Wales, agreed to action prohibiting the sale of military style semi-automatic weapons.<sup>9</sup> After the Act was passed the Government issued a paper which proposed requiring a permit for sporting semi-automatic firearms, specifically non-military or non-military style self loading centre fire rifles with integral magazines or detachable magazines capable of holding no more than five rounds. It was suggested permits be limited to collectors, primary producers who can establish a need for such a weapon on their properties, recreational shooters with appropriate permits, members of approved shooting clubs and professional shooters. The paper also proposed limiting the reasons for gun licences to membership of an approved club, recreational shooting and occupational requirements (eg farmers, professional shooters and security guards). Predictably the proposals gave rise to controversy. For the Tasmanian Firearms' Owners Association they were too restrictive; for the Coalition for Gun Control they did not go far enough.<sup>10</sup> Nothing was done. Not even military style semi-automatics were declared to be prohibited guns until after Port Arthur. And the proposal to require a need or a good reason for a firearms licence was not acted upon.

## Port Arthur

On 28 April 1996 Martin Bryant embarked on a shooting rampage which resulted in his conviction for the murder of 35 persons, the attempted murder of 20 others, grievous bodily harm to three, the wounding of 8, and 4 charges of aggravated assault. The shooting began in the Broad Arrow Café. He walked into the Café with a bag containing a Colt AR15, with a magazine holding thirty bullets of .223 calibre. This firearm is no more than a metre in length. It is a version of the M16 used by the US military and it has but one purpose - to kill or disable. This it does very efficiently. In the first 15 seconds Bryant killed 12 people; inflicted grievous bodily harm on a thirteenth; wounded five more and injured an additional four whom he attempted unsuccessfully to murder. Moving through to the gift shop he continued to fire. In 90 seconds, 20 people were killed and 12 injured. He changed magazines before leaving the café and continued to fire causing death and injury. He had two more weapons in the boot on his car: a .308 calibre FN FAL fitted with a 21 round magazine and a twelve gauge shot gun with a ten round detachable box magazine which was loaded. At the car park he exchanged the Colt

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<sup>9</sup> *Parliamentary Debates*, House of Assembly 31 October 1991.

<sup>10</sup> *Mercury*, 7 September 1992, p 3

AR 15 for the semi-automatic .308 FN FAL and continued to kill and wound. Neither the Colt AR 15 nor the .308 FNL were banned weapons; they did not even require a permit under the Act. Bryant was not licensed to possess firearms. He had taken a similar rifle to one used in the massacre to a licensed gun dealer for repairs but the source of the firearms was unknown. Assuming he had acquired the firearms after 1993, he had acquired them illegally. Port Arthur is a spectacular demonstration of the inadequacy of the *Guns Act* 1991. On 7 May 1996 regulations were made which tightened the Act significantly.

## 2 RESEARCH PLAN

Originally it was proposed to evaluate the *Guns Act* 1991 by analysing data for a period of 5 years before the commencement of the legislation and for a period of 5 years after. The first difficulty was that there was a delay in the proclamation of the Act. The *Guns Act* 1991 received the Royal Assent on 27 November 1991 but it was not proclaimed until 1 January 1993. On the assumption the legislation would be soon proclaimed, data collection began in early 1992 of gun related incidents for the pre-Act period from 1988 onwards. The original pre-Act period was to be 1 January 1988 – 1 December 1991, and the post-Act period 1 January 1992 to 31 December 1996. The 12 month delay in proclamation meant that data for a period of 6 years before the Act was collected and the post Act period was limited to 4 years. The post-Act period was subsequently further affected by the events at Port Arthur on 28 April 1996. The government responded quickly to the Port Arthur tragedy. Nine days later, on 7 May 1996 the *Prohibited Guns Act Order* 1996 was made. This declared four kinds of self-loading centre-fire rifles to be “prohibited guns”: guns designed or adapted for military purposes; those substantially similar; guns with integral magazine capacity of more than 5 rounds; and those designed or adapted for use with a detachable magazine capable of holding more than 5 rounds. The consequences of declaring a firearm a ‘prohibited gun’ under the *Guns Act* 1991 was merely that a prohibited gun permit was required for such a firearm in addition to a licence. Permits were available for members of an approved rifle club and collectors.<sup>11</sup> Collectors were only authorised to use the prohibited firearm on an approved range. The same restrictions did not apply to members of an approved club. While a permanent amnesty was in force under the *Guns Act* 1991, s 75 it seems few firearms were actually surrendered under this amnesty until after 28 April 1996. In May a national amnesty was declared and in the months following Port Arthur until the end of September 1996 some 748 firearms were surrendered.

To implement the resolutions of the Australasian Police Ministers’ Council of 10 May and 17 July the *Firearms Bill* was introduced. This was assented to on 30 August 1996 and commenced on 13 November 1996. This meant that in 1996 there were three distinct periods in terms of firearms legislation: a period of about 4 months during which the *Guns Act* 1991 remained as enacted without any firearms declared ‘prohibited’; a period of about 6 months when it was strengthened in relation to some semi-automatic weapons

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<sup>11</sup> *Guns Act* 1991, s 14



by declaring them prohibited; and a period of 7 weeks in which the *Firearms Act 1996* was in operation. In the light of these changes it was decided to make 30 April 1996 the cut-off period for data collection. However where data is readily available from official collections, data for 1997 has been included.

Thus, in essence, what is being evaluated in this study is the impact of legislation which introduced for the first time a requirement that all gun users be licensed.

## Data sources

A number of data sources were used.

### Police Records

Firearm deaths aside, there are no regular statistical collections that monitor firearms abuse.<sup>12</sup> Official statistics do not record those offences in which a firearm is used for all offences. However police records do contain data from which it is possible to extract this information. Until the middle of 1997 Criminal Offence and Modus Operandi Reports (COMORs) were completed within 24 hours by individual officers and sent to the Information Bureau. Offences involving firearms were noted on the forms. Until 1 January 1994 these reports were collated manually and entered into tables, which show offences recorded and cleared. Monthly totals are included as well as financial year totals. 'Offences recorded' covers all offences which have been reported by the public to the police and accepted as genuine, and offences which have been detected by the police in the course of their duties and criminal investigations. It was from these hard copies that the crime statistics in the Police Commissioner's Annual Reports were compiled.<sup>13</sup> From January 1994 a new system of recording offences was adopted. Rather than collating offences manually from the COMORs, data from them was entered on to the Crime Analysis System. Data from the annual reports was then extracted from this system. Because of this change and slightly modified recording practices it was anticipated that the number of offences recorded would be slightly higher in 1993-94 compared with previous years.<sup>14</sup> The crimes statistics tables in the annual reports do not consistently contain information about weapon use and crime. However this information is available for some offences from the hard copies from which the crime statistics in the annual reports are compiled before 1994 and from the crime analysis system for data after 1 January 1994. For all offences against the person and robbery, including attempts, data on the type of weapon (rifle, shotgun, pistol/handgun, other firearm, knife, other weapon, no weapon and weapon not further defined) is available. From 1993 to 1997 some of this information is included in the Australian Bureau of Statistics Collections.<sup>15</sup>

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<sup>12</sup> For a summary of data available in relation to firearm deaths, see Australian Bureau of Statistics, *Firearm Deaths 1980-1995* ABS Cat no 4397.0 1997, p 4; see also S Mukherjee, Australian Institute of Criminology, 'Firearm-related Violence in Australia' *Trends & Issues*, No 70. 1997.

<sup>13</sup> See Department of Police, *Annual Reports*, 1991, 1992, 1993, 1994.

<sup>14</sup> Department of Police, *Annual Report*, 1994, p 59.

<sup>15</sup> *National Crime Statistics* 1993, 1994, 1995 Cat no 4510.0; *Recorded Crime*, 1996, 1997, Cat no 4510.0

As noted above, neither the manual collations nor the computerised data collection (the crime analysis system data-base) contain information on the use of firearms in relation to property offences such as damage to property, killing or wounding cattle and burglary. For this reason it was decided to check all COMORs manually for the relevant period to extract information in relation to all criminal offences in which a firearm was used. This had the advantage of obtaining more information in relation to each incident where it had been recorded. This was entered into a data-base using Filemaker pro software. A copy of a blank record showing the information collected is reproduced in Appendix A.

### Counting Rules

For the COMOR data-base a separate record was made for each offence in the first instance. Sometimes one COMOR contained a number of separate crimes which formed part of a single incident. Sometimes there were separate COMORs for each crime even if the incident consisted of a series of offences. The data-base was then sorted using the following rules to calculate the number of firearm related incidents.

Each victim per distinct criminal incident is counted. The definition of victim varies according to the offence category using the ABS definition of victim<sup>16</sup> – for homicide and assault the victim is an individual person, for robbery the victim may be either an organisation or an individual person depending on whose property is stolen. If the robbery only involves property belonging to an organisation, then one victim (the organisation) is counted regardless of the number of employees or customers present. However if the robbery of an organisation also involves the personal property of an employee, then both the organisation and the employee are counted as victims. If two people in a house are robbed and property belonging to both of them is stolen from their immediate possession then two victims are counted. For burglary the victim is the place of premises. For killing or wounding cattle or an animal the victim is the owner and even if many animals are killed or wounded in one incident, one victim is counted if there is one owner. The same rule applies to damage to property.

For an incident involving multiple offences of the same kind (eg multiple assaults) one offence is counted per incident per victim. For incidents involving multiple offences of different kinds, the most serious offence per victim is counted. Offences in descending order of seriousness are:

- Homicide
- Grievous bodily harm/wounding
- Armed robbery
- Aggravated assault and assault
- Aggravated burglary
- Damage to property
- Discharge of a firearm
- Armed in public

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<sup>16</sup> See ABS, *Recorded Crime*, Cat no 4510.0, 1997 at 119

### Unlawful possession of a firearm

These rules differ slightly from the ABS national crime statistics, which measure the number of victims per national offence subdivision<sup>17</sup> rather than the number of victims per most serious offence. They also differ from the Police Department's statistics, which record the number of victims per offence type.

The ABS definition of a firearm was adopted: 'any potentially lethal, barrelled weapon from which shot, bullet, or other missile is able, or appears to be able, to be discharged'.<sup>18</sup> So a part of dismantled weapon was excluded as was a firearm described as a 'toy', but a 'replica' was included.

Calendar year data were extracted from crimes statistics tables in the hard copies before 1994 and in the crime analysis system data-base after 1994. This gave data on the total number of types of offences for offences against the person and property offences in the study period as well as providing a check in relation to the number of offences against the person and robbery in which a firearm was used. This revealed some disparities between the two data sets. Because of the different counting rules, the Police Department's statistics of offences recorded should show more offences in which firearms are used than the COMOR data-base created for this study. However this was not always the case. To explore why this could be so a thorough comparison was made between the two sets of data for robbery and assault for 1994 and 1995 as the Crime Analysis system records the COMOR number for each offence and this number was also recorded in our data-base. A comparison of the COMOR numbers from each data set allowed those numbers to be isolated which did not appear in each data set. These COMORs were then checked at the Information Bureau. The omission of some cases was explained on the basis of differences in counting rules in relation to multiple offence incidents and also because the police data used date of reporting as the relevant date whereas our data set used date of offence. It showed some errors in each data-base. Our data-base had included a number of cases in which the offender had threatened to use or fetch a firearm but no firearm was actually produced as well as incidents in which a toy firearm or a part of a firearm was used. Eliminating these cases from our data-base and adding a few that had been missed reduced the discrepancies for 1994 and 1995 leaving very few assaults and robberies that had not been recorded in the Crime Analysis system as involving a firearm. This process led us to recheck all robbery and assault incidents in our data-base to eliminate over-counting in cases where a 'firearm' as defined in the counting rules was not actually produced.

There are other police records dealing with firearms incidents:

- The ballistics section work book is a record of the details of all firearms seized and examined. As not all firearms used in known offences are seized it is only a partial record of firearms used in crime. Nevertheless it does provide quite detailed information in relation to type of firearms used in relation to criminal offences, suicides and accidents when the firearm is seized or surrendered. Where possible this

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<sup>17</sup> Ibid at 105.

<sup>18</sup> Ibid at 119.

information was cross-referenced with COMORs and information in relation to the type of firearm used was entered into the COMOR data-base.

- The Firearms/weapon incident report – this form was required by police standing orders to be completed and it included accidents and suicides as well as offences. However it did not appear to be used consistently used by police and so reliance was not placed on it.

### **Coroners' Records**

Approval was given to access the Justice Department's records. A separate Filemaker pro data-base was set up to enter information from this source. The items of information recorded are shown in Appendix B.

### **Hospital Records**

Information was obtained from public hospital admissions in Tasmania (see Appendix C).

### **Australian Bureau of Statistics**

Unpublished mortality data for 1989 to 1997 was obtained from the Australian Bureau of Statistics.

## **3 DEATHS CAUSED BY FIREARMS**

### **Suicide**

#### **Introduction**

Suicide accounts for the largest number of firearm deaths in Australia.<sup>19</sup> In comparison with the rest of the country Tasmania had a high gun suicide rate in the years 1983 to 1992. The firearm-related suicide rate for Australia as a whole between 1983 and 1992 moved from 3.38 to 2.80 with a high of 3.52 (in 1987) and a low of 2.68 (in 1989).<sup>20</sup> But in Tasmania the rate was 6.01 in 1983 and 7.97 in 1992; the lowest rate was 5.03 in 1984 and the highest was 8.32 in 1990.<sup>21</sup> Tasmania and the Northern Territory had the highest rates of firearm-related suicide in Australia between 1983 and 1992 – in seven of those ten years the Tasmanian rate was higher than the Northern Territory.<sup>22</sup>

<sup>19</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996, Table 1.1, p 5; S Mukherjee, 'Firearm-related violence in Australia', *Trends & Issues*, No 70, 1997; Australian Bureau of Statistics, *Firearm Deaths 1980-1995*, ABS Cat no 4397.0, p 5.

<sup>20</sup> See S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996, Table 4.1, p 22.

<sup>21</sup> *Ibid*, Table 5.6, p 36

<sup>22</sup> *Ibid*, compare Tables 5.6 and 5.7.

A reduction in suicide was an aim of the *Guns Act* 1991.<sup>23</sup> There are a number of ways in which this legislation could impact on firearm suicides. Literature on firearms suggests there is a positive correlation between the number of homes with firearms and firearm suicides.<sup>24</sup> Reducing the number households with firearms was one of the aims of the legislation. Advocates of gun control hoped the debate on firearms that accompanied the reforms would increase awareness of the dangers of firearms, causing some owners to dispose of their weapons. It was hoped that the introduction of a cooling-off period of 21 days between seeking a gun licence and obtaining a firearm would have the effect of reducing the firearm suicide rate.<sup>25</sup> The impact of safe storage conditions should also lead to a decrease in the availability of weapons for spontaneous acts of suicide, particularly by male adolescents.

### **Firearm suicide in Tasmania pre and post the *Guns Act* 1991**

Data from Coroners' records indicates that while the number of suicides by firearms fluctuated in annual terms in the survey period, they decreased in the post *Guns Act* period by some 34 per cent compared with the pre *Guns Act* period.

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<sup>23</sup> *Parliamentary Debates, House of Assembly*, 18 June 1991, p 1821

<sup>24</sup> T Gabor, *The Impact of the Availability of Firearms on Violent Crime, Suicide and Accidental Death: a review of the literature with special reference to the Canadian situation*, Department of Justice, Canada, 1994; CH Cantor and PJ Slater, 'The Impact of Firearm Control Legislation on suicide in Queensland: Preliminary Findings' (1995) 162 *The Medical Journal of Australia*, 583-585.

<sup>25</sup> The *Guns Act* 1991 s 22(5) provided that the Commissioner shall not grant a licence sooner than 21 days after the application for the licence.

**TABLE 1: Firearm Deaths, 1 Sept 1989 to 31 Dec 1992 and 1 Jan 1993 to 30 April 1996 compared**

Date	Suicide	Accident	Killed by another	Unconfirmed	Total
1989	9	1	0	1	11
1990	38	3	1	2	44
1991	25	2	2	1	30
1992	43	2	2	3	50
Total pre Guns Act	115	8	5	7	135
1993	23	2	4	0	29
1994	33	1	1	0	35
1995	16	1	0	0	17
1996	4	0	36	1	41
Total post Guns Act	76	4	41	1	122

Source: Coroners' Records.

Information was extracted from Coroners' records to determine the impact of delaying the acquisition of a firearm by licensing requirements and cooling-off periods. The results suggest that the Act did reduce the number of spontaneous acts with recently acquired firearms. Information on when the gun was obtained was available for less than half of the suicides. Of those nearly half (22/48) in the pre *Guns Act* period committed suicide within 2 weeks of obtaining the firearm. In the post *Act* period, less than a quarter (8/34) did so. However a number of people managed to obtain a firearm without having a licence – more than half of those whose licence status was known (19/34).

Information was also obtained on the kind of firearm used. Table 2 shows that conventional rifles and shotguns were the most frequently used weapon; these were usually .22 calibre rifles and 12 gauge shotguns. Handguns were used even less than

semi-automatic and self loading firearms of the kind that are now prohibited. There was little difference between the two periods in the kind of guns used.

**TABLE 2: Type of Firearm, Suicide, Tasmania, Pre and Post Guns Act 1991, Tasmania**

Type of firearm	1989-1992		1993-1996		Total	
	No	%	No	%	No	%
Rifle/shotgun (not prohibited)	93	80.9	57	76.0	150	78.9
Semi-automatic and prohibited	19	16.5	13	17.3	32	16.8
Pistol/Handgun	3	2.6	5	6.6	8	4.2
Sawn-off long arm	0	0	0	0	0	0
Total	115	100	75	100	190	100

Source: Coroners' Records

Clearly then, the hoped for reduction in firearm suicide has been achieved, possibly as a result of the legislation. How does Tasmania appear in the national context? Does it still have the highest firearm suicide rate? What are the national trends? Is firearm suicide also declining nationally? And what impact do firearm suicide rates have on the total suicide rate?

#### **Tasmanian firearm suicides in the Australian context post *Guns Act***

Does Tasmania still have the highest firearm suicide rate in Australia?

**TABLE 3: Firearm suicide, Rates per 100,00 total population, Australia, States and Territories, 1989-1997**

	1989	1990	1991	1992	1993	1994	1995	1996	1997
Aust	2.68	2.86	2.95	2.80	2.46	2.35	2.14	2.08	1.78
Tas	5.49	8.32	6.00	7.87	5.30	6.14	3.3	2.32	2.76
NSW	2.13	2.16	2.15	2.30	2.11	2.03	1.8	1.70	1.70
Vic	2.04	1.85	2.62	2.18	2.04	1.61	1.73	1.68	1.71
Qld	4.28	5.33	4.90	3.89	3.41	3.57	3.27	3.56	2.49
SA	3.03	2.99	3.46	3.57	2.53	2.45	2.31	1.62	1.14
WA	2.09	1.90	2.08	1.99	2.27	2.12	1.5	1.81	1.22
NT	4.96	6.36	4.23	6.58	3.57	4.67	4.7	4.4	3.33
ACT	3.62	1.40	1.04	1.70	1.67	0.66	.65	1.62	.64

Source: ABS, unpublished mortality data.

Whilst there was a drop in the number and suicide rate by firearm in Tasmania in 1993 and 1994 (post *Guns Act*) from the 1992 figure, the Tasmanian rates remained the highest in Australia in these years. In 1995 the rate dropped quite significantly. The rate was second to the Northern Territory in 1995 and third to the Northern Territory and Queensland in 1996 and 1997. In each of the years since the *Guns Act* became operative, the Tasmanian firearm suicide rate remained higher than the national rate. Nationally, suicide by firearm rates have been declining since 1988, a trend that was not clearly apparent in Tasmania until 1995. This general decline in the rate of firearm suicide raises the question of the impact of the decline in firearm suicides on the total suicide rate.

### **Total suicide rates**

In Australia the total suicide rate has remained fairly stable from 1915-1950 (a decline in the Second World War period excepted). It showed an upward trend from 1951- 1967. From 1968 onwards the rate declined.<sup>26</sup> Table 4 shows the rates from 1989 to 1997.

<sup>26</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996 p 8



**TABLE 4: Total Suicide, Rate per 100,000 total population, Australia, States and Territories, 1989 - 1997**

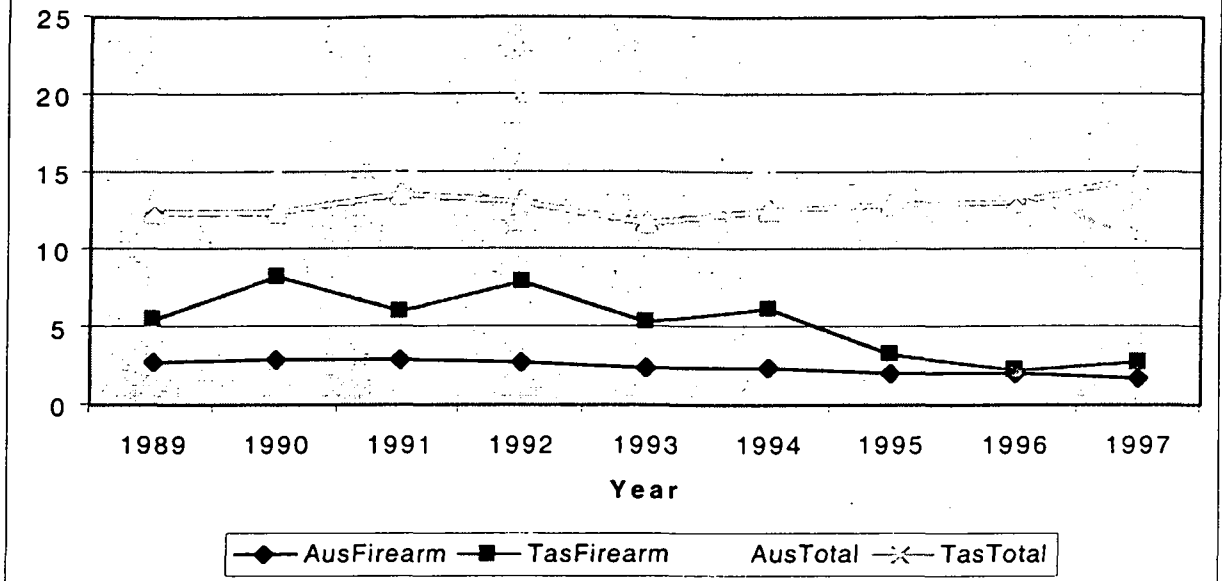
	1989	1990	1991	1992	1993	1994	1995	1996	1997
Aust	12.5	12.5	13.6	13.1	11.8	12.6	13.0	13.1	14.7
Tas	13.0	15.0	14.4	20.4	17.6	14.8	13.9	13.5	10.8
NS W	11.8	4.5	13	12.2	11.7	12.9	12.49	13.1	14.9
Vic	11.5	9.1	13.7	12.5	11.1	11.4	12.5	11.0	14.5
Qld	14.5	11.7	14.2	14.1	11.8	14.3	14.2	16.1	15.7
SA	14.2	12.1	16	14.6	11.4	11.5	13.6	12.5	13.3
WA	11.72	13.6	13	12.9	12.9	12.7	12.6	12.3	14.2
NT	14	18.6	11.5	13.7	12.9	11.0	13.0	19.2	20.3
ACT	12.7	12.6	11.8	10.5	9.0	11.9	11.2	12.0	13.5

Source: ABS, unpublished mortality data.

In the four year period before and after the *Guns Act* came into operation, the national rate was relatively stable – in the 12 to 13 per 100,000 of population range – then increasing to 14.7 in 1997. In Tasmania in the pre *Guns Act* period the total rate fluctuated, and then declined in the post *Act* period. In national terms Tasmania had a total suicide rate above the national rate in each year from 1989 until 1997, when it recorded the lowest rate.

Nationally then, the suicide rate is stable, but the firearm suicide rate is declining. In Tasmania both the firearm suicide rate and the suicide rate have been declining since the *Guns Act* has been in operation.

**Fig 1: Firearm suicide and total suicide, rates per 100,000 Australia and Tasmania, 1989-1997**



### Firearm suicides and other methods

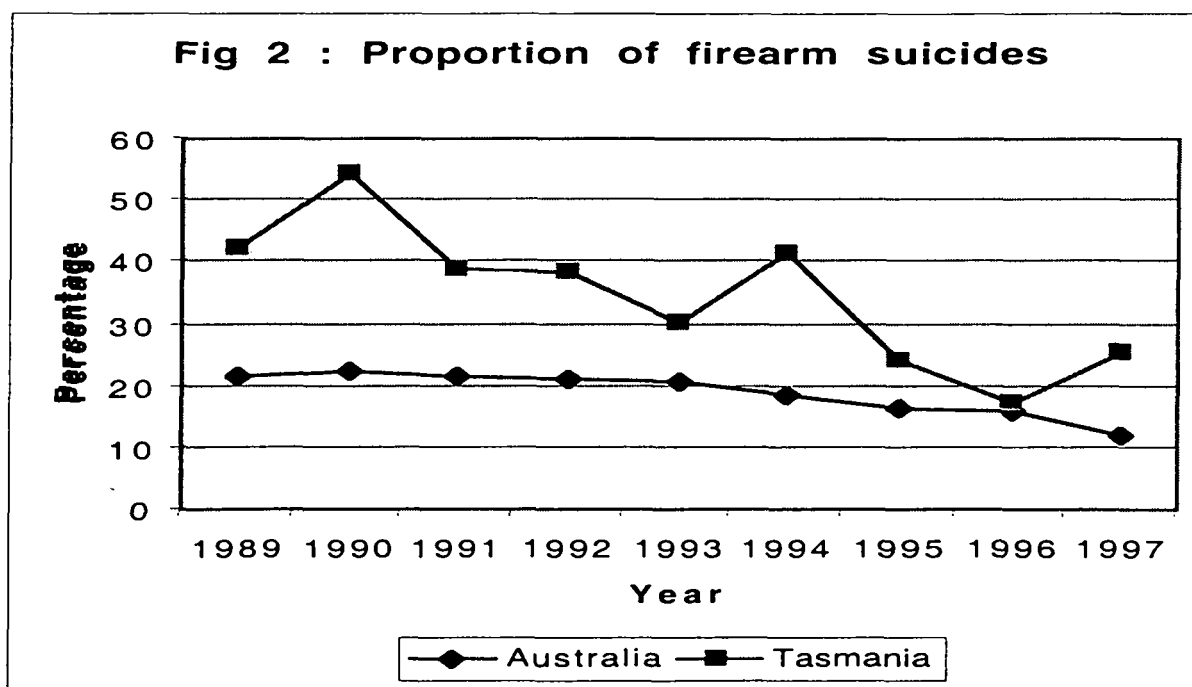
It is clear that a declining national firearm suicide rate has not been accompanied by a declining total suicide rate. Rather the proportion of suicides that involve firearms has decreased. Nationally, the percentage of suicides by firearm increased from 1960 to 1980. Since 1980 it has steadily decreased from 32.2 per cent to 18.6 per cent in 1994.<sup>27</sup> Table 5 shows the proportion has continued to decline since 1994. It is now lower than it was in 1960 and lower than it has been at any time since 1915. In Tasmania the proportion of suicides committed with a firearm did not show such a clear downward trend until after 1994.

<sup>27</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996 p 6-7.

**TABLE 5: Number and percentage of firearm-related suicides 1989-1997, Australia and Tasmania**

	firearm	total	% firearm	firearm	total	% firearm
1989	450	2096	21.5	25	59	42.4
1990	486	2161	22.5	38	70	54.3
1991	505	2360	21.4	26	67	38.8
1992	488	2294	21.3	37	96	38.5
1993	431	2081	20.7	25	83	30.1
1994	420	2258	18.6	29	70	41.4
1995	388	2367	16.4	16	66	24.2
1996	382	2393	16.0	11	64	17.2
1997	331	2723	12.2	13	51	25.5

Source: ABS, unpublished mortality data.



So nationally, while firearm suicide has declined, other methods have increased. This displacement of firearms by other methods was noted by Mukherjee in 1997. He examined the data for male suicides – four out of five suicides involve males and so suicide data often refers to males only – and found that in 1986 a firearm was the most frequent method of committing suicide in Australia, but by 1995 hanging, strangulation and suffocation was the most frequently used method (65 per cent) followed by poisoning

by gas and vapour (46.9 per cent) and then by firearms and explosives (40.7 per cent).<sup>28</sup> The same displacement does not appear to have occurred in Tasmania. In this State the reduction in firearm suicides has affected the total rate which has also declined to a level below the national rate in 1997.

## Homicide

### Introduction

In terms of the total population, there are considerably less firearm homicides than firearm suicides. But for females the picture is different. In 1994 one half of the firearm deaths among females were homicides.<sup>29</sup> Most homicides are committed by family members, friends or acquaintances of the victim – about one third are committed within the family and about one third by a friend or acquaintance of the victim.<sup>30</sup> In the domestic context the existence of a firearm can pose a grave threat, particularly to females. It seems that a greater proportion of homicides within the family is firearm homicide than in other categories of homicide.<sup>31</sup> It was hoped that the *Guns Act* would reduce the level of violence in the home, including of course, homicide. It was also hoped that by preventing access to guns by those with a propensity for violent crime or those otherwise unsuitable to possess a firearm, firearm massacres and multiple shooting would be reduced if not eliminated. Any discussion of the impact of the *Guns Act* on firearm homicide in Tasmania is overshadowed by the events at Port Arthur on 28 April 1996. Of the 36 homicides recorded in the first four months of 1996 (see Table 1) 35 were committed at Port Arthur. For many this was a spectacular demonstration of the failure of the *Guns Act* 1991. Thirty five people were shot and killed by a man who owned a firearm with no licence to do so. Moreover the firearms - semi-automatics, with the capacity to kill 12 people in about 15 seconds - had not been prohibited by the legislation. Nevertheless an attempt will be made to put this event in the context of patterns of firearm homicide.

### Total homicide and firearm homicide rates

In 1996 Mukherjee and Carcach reported that for the period 1915 to 1994 the average rate of homicide in Australia was 1.6 per 100,000 total population and the average rate of homicide by firearm was .5. The total homicide rate decreased over the period from 1915 to 1940 and remained relatively stable during the years from 1941 to 1950. Since 1951 the total homicide rate has returned to levels that existed in the early part of the century.<sup>32</sup> For the twenty year period from 1975-6 to 1994-5, the number of homicides remained relatively stable, with the rate oscillating between a low of 1.80 in 1980-81 and a high of

<sup>28</sup> S Mukherjee, 'Firearm-related violence in Australia', *Trends & Issues*, No 70, 1997, p 3.

<sup>29</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996 pp 22-23.

<sup>30</sup> *Ibid* at 12

<sup>31</sup> *Ibid*

<sup>32</sup> *Ibid* at 8

2.29 in 1987-88.<sup>33</sup> From 1915 to 1994 the temporal behaviour of the rate of homicide by firearm in Australia mirrored that of the total homicide rate.<sup>34</sup> But the following year, Mukherjee noted that the proportion of homicides involving a firearm had declined between 1993 and 1995 from one third to one fifth.<sup>35</sup> If the ten year period between 1983 and 1994 is examined there is a drop in the number and rate of firearm homicides after 1988. Does more recent data confirm this trend? And how does Tasmania fit into this picture? In terms of the total homicide rate, together with Victoria, South Australia and the Australian Capital Territory, Tasmania has tended to experience homicide rates below the national average.<sup>36</sup> But for firearm related homicide, data from 1983 to 1994 shows that from 1983 until 1986 the Tasmanian rate was higher than the national rate; thereafter it fluctuated.<sup>37</sup>

The tables below show the national homicide rate and the firearm homicide rates for Australia and Tasmania.

**TABLE 6: Homicide, Rate per 100,000 total population, Australia and Tasmania, 1989-1997**

	1989	1990	1991	1992	1993	1994	1995	1996	1997
Aust	1.9	2.3	2.0	1.8	1.8	1.9	1.8	1.8	1.8
Tas	1.3	.9	1.5	1.1	.2	1.1	1.1	3.4	2.5

Source: ABS, unpublished mortality data 1989-1997.

**TABLE 7: Firearm Homicide, Rate per 100,000 total population, Australia and Tasmania, 1989-1997**

	1989	1990	1991	1992	1993	1994	1995	1996	1997
Aust	.48	.46	.49	.55	.36	.43	.37	.57	.43
Tas	1.1	.43	.43	.64	.42	.21	-	3.2	.21

Source: ABS, unpublished mortality data 1989-1997.

In the last three years the national homicide rate has stabilised at a rate which is at the bottom of the level experienced over the last twenty years. The firearm homicide rate has remained steady and the lower rates apparent since 1988 have been maintained. Unlike the firearm suicide rate there has been no reduction in the last three years.

<sup>33</sup> Ibid at 18

<sup>34</sup> Ibid at 8-9

<sup>35</sup> S Mukherjee, 'Firearm-related violence in Australia', *Trends & Issues*, No 70, 1997, p 2.

<sup>36</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996, p 18.

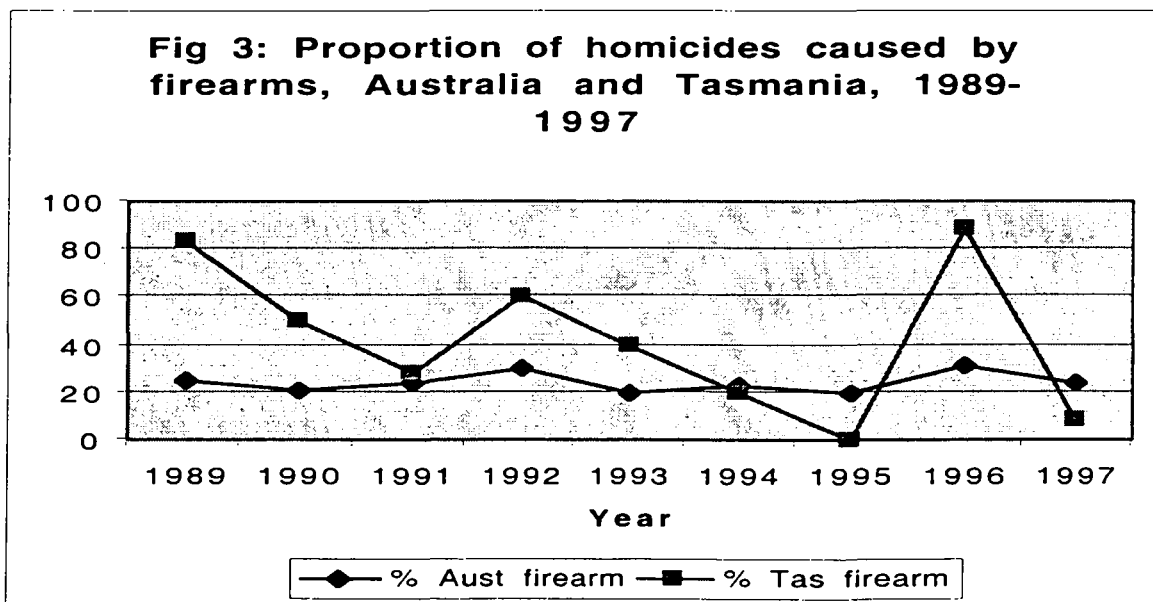
<sup>37</sup> Ibid, table 4.1 at p 22.

Table 8 shows that the proportion of homicides committed with a firearm has fluctuated but not declined. It has not remained stable at one fifth, although the high 1996 figure is attributable to the deaths at Port Arthur.<sup>38</sup> Without Port Arthur the proportion would have been 24%.

**TABLE 8: Number and percentage of firearm-related homicides 1989-1997, Australia and Tasmania**

	Australia			Tasmania		
	firearm	total	% firearm	firearm	total	% firearm
1989	80	319	25.1	5	6	83.3
1990	79	385	20.5	2	4	50
1991	84	354	23.7	2	7	28.6
1992	96	319	30.1	3	5	60.0
1993	64	326	19.6	2	5	40.0
1994	76	332	22.9	1	5	20.0
1995	67	333	20.1	0	5	-
1996	104	326	31.2	15	17	88.2
1997	79	329	24.0	1	12	8.3

Source: ABS, unpublished mortality data 1989-1997.



<sup>38</sup> Thirty three of the victims were Australian residents (ABS mortality data in these Tables is based on residence of victim).

Because the numbers of homicides in Tasmania are so low it is difficult to draw any clear inferences from them. Table 5 shows that in the pre *Guns Act* period Tasmania had a homicide rate that was lower than the national rate. This changed in 1996 and 1997. The high rate in 1996 - 3.4 - was a because of the Port Arthur massacre.<sup>39</sup> The firearm homicide level has fluctuated above and below the national rates, as has the proportion of homicides that are firearm related.

## Accidental Deaths

Firearms deaths can, of course, be accidental. In recent years the firearm accident death rate has been lower than the firearm homicide rate, but it is nevertheless significant. From 1989 to 1992 an average of 25 people each year died in Australia in firearm accidents.<sup>40</sup> Did the *Guns Act* 1991 reduce the number of accidental firearm deaths in Tasmania? By requiring a licence, gun safety education and safe storage requirements it was hoped that the number of firearm related accidents would be reduced. Table 1 shows the number of accidental deaths caused by firearm declined in the post *Guns Act* period but as the numbers of firearm accidents are so small it difficult to draw any firm conclusions from them.

## 3 FIREARM USE IN CRIME

### Introduction

Using data from the COMOR data-base, Table 8 and Fig.4 show the number of firearm related incidents committed between 1 September 1989 and 31 April 1996 representing a period of 3 years and 4 months before the operation of the *Guns Act* 1991 and a period of 3 years and 4 months after it. There was no decrease in the numbers of attempted murders, wounding or assaults involving a firearm. Nor was there any decrease in the number of armed robberies using firearms. In all of these categories of violent crime there was an increase in firearm related incidents. However for property offences the picture is different. The number of incidents of injury to property was stable and there was a reduction in the number of incidents of unlawfully killing or injuring animals.

The data in Table 8 and Figure 4 are based on the number of firearm incidents. They do not allow for changes in population nor do they take into account changes in the total crime rate. It may be that the proportion of violent crimes committed with a firearm has declined in the post *Guns Act* period. The offences that are more commonly associated with firearms are considered in more detail below. Data from a number of sources is used: the COMOR data-base, the Police Departments statistics of offences recorded, and for national comparisons, the ABS Recorded *Crime* statistics.

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<sup>39</sup> The ABS data is based on the usual residence of the victim - 12 of whom were resident in Tasmania. Using the Coroners' data-based on homicides registered as deaths in Tasmania, the rate is 9.1 per 100,000.

<sup>40</sup> S Mukherjee and C Carcach, *Violent Deaths & Firearms in Australia: Data & Trends*, Australian Institute of Criminology, Canberra, 1996, pp 9, 22.

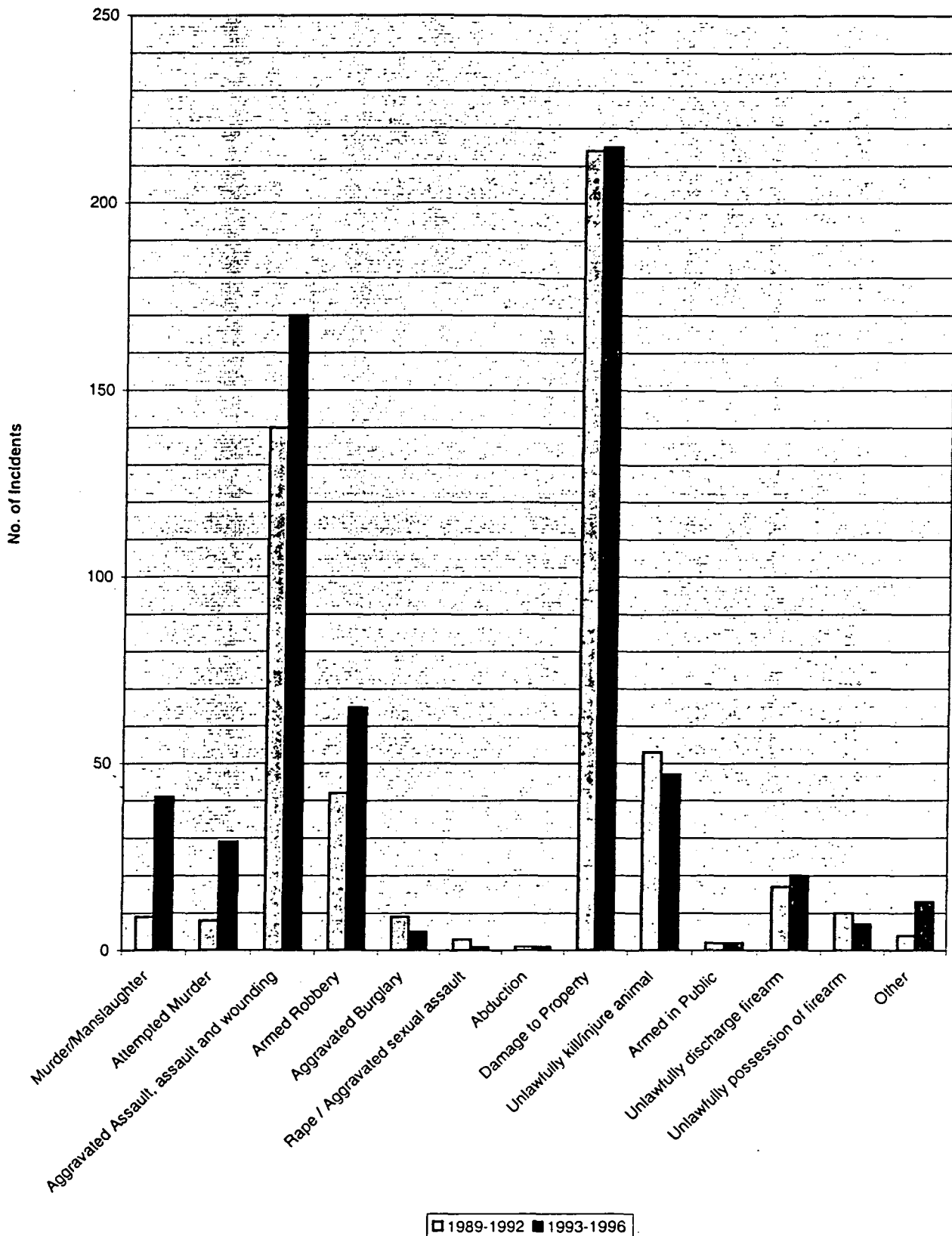
**TABLE 9: Firearm Related Incidents, September 1989 – December 1992 and January 1993 – April 1996**

	1989	1990	1991	1992	Total	1993	1994	1995	1996	Total
Homicide	3	3	0	6	12	4	3	6	40	53
Attempted Murder	0	1	0	7	8	1	2	5	21	29
Gbh/wounding	2	2	3	4	11	2	2	2	41	47
Aggravated assault	1	1	1	0	3	19	19	11	22	71
Assault	17	31	26	52	126	27	26	28	2	78
Aggravated burglary	1	1	4	5	11	1	1	1	1	4
Armed Robbery	2	14	9	18	43	22	25	16	2	65
Damage to Property	21	51	50	92	214	63	77	50	21	211
Kill/injure animals	9	17	15	12	53	12	14	17	4	47
Unlawfully discharge firearm	4	4	6	3	17	4	8	6	2	20
Unlawful possession of firearm	2	5	1	2	10	2	2	3	0	7
Armed in public	0	1	0	1	2	0	0	2	0	2
Abduction	0	0	1	0	1	0	1	0	0	1
Rape/aggravated sexual assault	0	0	0	3	3	0	0	1	0	1
Other	2	1	2	1	6	5	2	5	1	13

Source: COMORs, Police Department, Information Bureau.



**Fig. 4: Firearm Related Incidents**  
**September 1989-December 1992 and January 1993 - April 1996 compared**



## Aggravated assault, assault and wounding

The *Guns Act* 1991 provided in s 48 that if a firearm is used in the course of an assault, the crime is aggravated assault contrary to the *Criminal Code*, s 183. It is not surprising then that Table 9 shows that there was a dramatic increase in the number of known offences of aggravated assault involving a firearm after 1993 and a reduction in the number of assaults involving a firearm that are recorded as simple assaults. In fact there should be no crimes involving a gun recorded after 1 January 1993 unless the assault was committed before that date. Sentencing principle requires that if it is alleged a firearm is used in the course of an assault, this cannot be taken into account in imposing sentence unless the crime charged is aggravated assault. It follows that all assaults committed after 1 January 1993 should be charged as the indictable offence of aggravated assault contrary to s 183 of the *Criminal Code* rather than assault contrary to the *Police Offences Act* 1935 s 35 or the *Criminal Code* s 184. Because of this legislative change and because it appears that assaults involving a firearm were often incorrectly described, the offences of assault and aggravated assault assaulting a police officer were combined for the purpose of Fig 4. Wounding and grievous bodily harm have also been combined with assault in Fig 4. Fig 4 shows there were a total of 140 incidents of assault involving a firearm in the period before the *Guns Act* came into operation and 170 in the later period, a 21 per cent increase.

### What kinds of incidents?

The descriptions of the incidents in the COMORs give a picture of the kind of incidents in which assaults were committed with a firearm. In the majority of incidents it was clear that the offender and the complainant were not strangers and half of the assaults took place at a dwelling house. A firearm was used in many family disputes – disputes between children or step-children and parents, in-laws; brothers; uncles and nephews; a grandson threatening his grandmother and many incidents involving a man assaulting his wife or ex-wife or de facto by pointing or firing a firearm in her direction. The police officers' descriptions of some of these incidents in the COMMOR narrative shows the fear that can be caused by the very presence of firearms in a house when there is an argument. For example, one incident described how the complainant tried to hide her drunken boy friend's guns during an argument before he got hold of one of them and threatened her with it. In a number of cases there was technically no assault with a firearm and so the incident was not counted as such, but the complainant's knowledge that the offender possessed firearms heightened her apprehension. One complainant was punched by her de facto when she was trying to prevent him going to the gun cupboard (a post *Guns Act* case). In another, also a post *Guns Act* case, it was alleged a man assaulted his wife by grabbing her hair and punching her. He made several threats to shoot her, obviously made real by her knowledge that he owned two firearms. Similarly in another the offender hit the complainant – his de facto- with clenched fists, broke a window and threatened to get his gun out of the car to shoot her.

Disputes between neighbours in which a gun was used were also quite common. Disputes involved such matters as dogs, a messy yard, the use of a right-of-way, loud music and

the use of bad language. Disputes over property resulted in the use of a firearm and there were a number of cases in which a firearm was used in a dispute at a party. Children were offenders in a number of cases, usually involving an assault with an air rifle. For example a 13 year-old shot a 10 year-old next door and a 15 year-old shot her neighbour in the leg. Two young boys fired shots with an air rifle at two girls standing near a pond hitting one of the girls on her leg.

Cases in which it appeared that the offender was a stranger to the victim included cases of 'road rage' and cases where the occupants of cars were fired at or pedestrians were fired at from a vehicle. A number of people were assaulted in the course of their employment. In addition to police officers, publicans, a surveyor, a fireman, a postman, and a public officer at a wharf were assaulted with a firearm. Two Jehovah's Witnesses were threatened with a firearm when they did not leave immediately.

Incidents recorded as assault or aggravated assault with a firearm were often cases where the firearm was pointed at the victim and not discharged. However in about 33 per cent of cases the gun was fired and it was known to be loaded in an additional 10 per cent. In a number of cases the firearm was used to strike the victim, using either the butt or barrel of the weapon.

**TABLE 10: ASSAULT (including wounding and grievous bodily harm) 1988-1997**

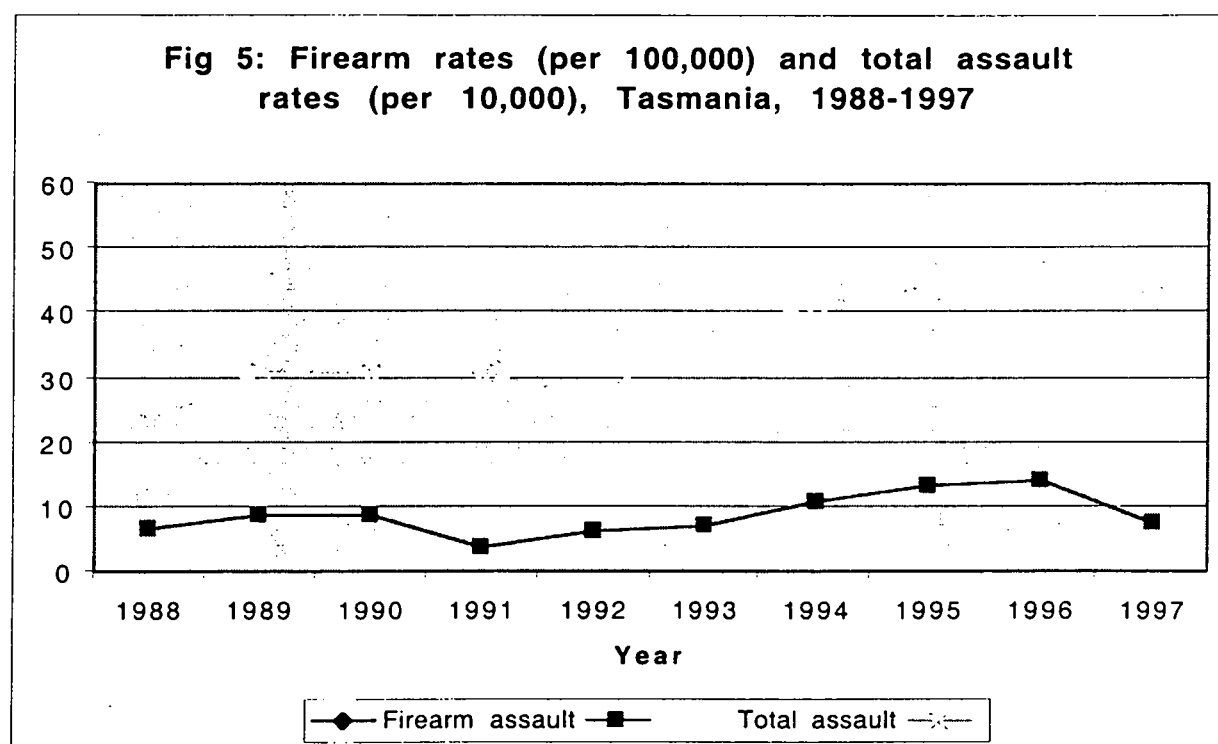
	1988		1989		1990		1991		1992		1993		1994		1995		1996		1997	
	No	%	No	%	No	%	No	%	No	%	No	%	No	&	No	%	No	%	No	%
<b>Weapon used</b>	69		167		135		54		82		224		296		381		433		379	
<b>Firearm</b>	30	2.9	40	2.8	40	2.8	18	1.3	29	2.3	33	1.9	50	2.5	63	3.0	66	2.9	35	1.7
<b>Knife</b>	3	.3	27	1.9	24	1.7	14	1.0	35	2.8	67	3.8	86	4.4	92	4.4	80	3.5	79	3.9
<b>Weapon (nfd)</b>	36	3.5	100	7.1	71	5.0	22	1.6	18	1.4	124	7.1	160	8.2	226	10.8	287	12.7	265	13.1
<b>No weapon used</b>	968	93.3	1243	88.2	1290	90.5	1335	96.1	1173	93.5	1525	87.2	1666	85.0	1715	81.9	1829	80.9	1648	81.3
<b>Total</b>	1037	100	1410	100	1425	100	1389	100	1255	100	1749	100	1962	100	2096	100	2262	100	2027	100

Source: Police Department, offences recorded, 1989-1997

**TABLE 11: Firearm and total assault rates, 1988-1997, Tasmania  
(including wounding and grievous bodily harm)**

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Firearm assault	6.7	8.8	8.7	3.9	6.2	7.0	10.6	13.3	13.9	7.4
Total assault	229.9	309.7	308.3	305.3	267.1	370.8	414.8	442.4	476.7	428.1

Source: Police Department, offences recorded, 1989-1997



**TABLE 12: Number of firearm assaults and firearm assault rates, 1988-1995, Tasmania (including wounding and grievous bodily harm)**

	1988	1989	1990	1991	1992	1993	1994	1995
No. f/arm assault	24	41	34	30	62	48	47	41
F/arm assault rate	5.3	9.0	7.4	6.4	13.1	10.2	10.1	8.7

Source: COMORs, Police Department, 1988-1995.

Table 9 shows, as discussed above, that the introduction of the *Guns Act* did not result in a reduction in the number of firearm assaults in the post Act period. Table 910, using the Police Department's calculation of offences recorded, confirms this. In fact the increase in the number of assaults with a firearm in the four years after the *Guns Act* came into force is even greater – an 83% increase. This is not surprising given the different counting rules.<sup>41</sup> Table 11 shows the firearm assault rate per 100,00 total population. This too shows a rate that fluctuated in the period before the *Guns Act* and thereafter increased for four years from 1993 to 1996 before falling in 1997 when the *Guns Act* was repealed and replaced by the new *Firearms Act*. Comparison with the numbers and rates using the data obtained from the COMORs suggests the numbers and rate of firearm assault in Tables 10 and 11 are likely to be understated in the years 1991-1993, the true rate is more likely to be closer to the rates shown in Table 11 for those years. A comparison of the firearm assault rate with the total assault rate shows that the assault rate also increased in the post Act period. Table 13 shows that the proportion of assaults that were committed with a firearm remained relatively stable throughout the four years before and after the *Guns Act*. The reduction in the number of firearm suicides, the firearm suicide rate and the proportion of firearm suicides in the post *Guns Act* period is not repeated in the assault figures; there has been an increase in firearm assaults and in the firearm assault rate and no reduction in the proportion of assaults that are committed with a firearm. Data for 1997 suggests this may now be changing with reductions in all three as well as a reduction in the total assault rate.

<sup>41</sup> Offences recorded statistics count different offences against one victim in one incident whereas in Table 8 only the most serious offence per victim per incident is counted, for an explanation of the counting rules see page 8.

**TABLE 13: Number of firearm assaults and percentage of total assault, 1988-1997**

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
No f/arm assaults	30	40	40	18	29	33	50	63	66	35
% Total assaults	2.9	2.8	2.8	1.3	2.3	1.9	2.5	3.0	2.9	1.7

Source: Police Department, offences recorded, 1989-1997

### Tasmanian firearm assault in the Australian context

**TABLE 14: Firearm assault victimisation rates, 1995-1997, Australia, States and Territories**

	1995	1996	1997
Australia	3.5	3.5	4.5
Tasmania	8.2	13.3	6.8
NSW	3.5	3.7	4.9
Vic	1.8	1.8	3.5
Qld	5.2	4.0	5.8
SA	2.5	2.4	1.4
WA	1.8	1.4	2.7
NT	23.7	29.8	23.7
ACT	3.6	4.6	5.2

Source: ABS, National Crime Statistics, 1995, Recorded Crime, 1996, 1997

**TABLE 15: Total assault victimisation rates, 1995-1997, Australia, States and Territories**

	1995	1996	1997
Australia	560.3	620.1	668.8
Tasmania	430.0	466.1	415.4
NSW	619.1	769.7	892.5
Vic	351.1	355.6	361.2
Qld	536.6	533.2	518.8
SA	913.0	898.9	927.7
WA	634.6	676.5	763.9
NT	1166.8	1411.0	1368.6
ACT	456.8	578.5	540.36

Source: ABS, National Crime Statistics, 1995, Recorded Crime, 1996, 1997

**TABLE 16: Percentage of assaults using a firearm, 1995-1997, Australia, States and Territories**

	1995	1996	1997
Australia	0.6	0.6	0.7
Tasmania	1.9	2.8	1.6
NSW	0.6	0.5	0.5
Vic	0.5	0.5	1.0
Qld	1.0	0.7	1.1
SA	0.3	0.3	0.1
WA	0.3	0.2	0.3
NT	2.1	2.1	1.6
ACT	0.6	0.8	1.0

Source: ABS, National Crime Statistics, 1995, Recorded Crime, 1996, 1997

As Table 14 shows, Tasmania had the second highest firearm assault rate in Australia in the years 1995 to 1997. In 1997 the national rate increased but the Tasmanian rate dropped significantly. The proportion of assaults that are committed with a firearm is more than double the national percentage and was the highest in 1996 and 1997 (see Table 16). The firearm assault rate contrasts with the total assault rates (see Table 15). Tasmania had a rate consistently below the national rate and the second lowest rate nationally after Victoria. The rates and percentages sourced from the ABS data differ from the rates and percentages sourced from the Police Department data used in Table 11



and 13. This is because the counting rules differ. The ABS count one assault offence per victim per incident even if multiple counts of grievous bodily harm, wounding and assault are committed against one victim. The Police Department count one offence in each of the separate offence categories if more than one offence type is recorded in respect of one victim in the same incident.

## Armed Robbery

### Definition of the crime

There are four distinct crimes of robbery in s 240 of the *Criminal Code*: robbery, aggravated robbery, armed robbery and aggravated armed robbery. Robbery is committed if a person steals something and uses or threatens violence at the time or immediately before or after. It is armed robbery if the person is armed with a firearm or other dangerous or offensive weapon at the time of the robbery. And robbery or armed robbery is in the aggravated form if the person who commits the robbery is in company or causes bodily harm to any person. This definition and structure of the robbery section was introduced in 1988 and has remained unchanged since. Prior to the 1988 amendment, there was but one crime of robbery: robbery with violence.

### The impact of the *Guns Act* on firearm robbery

In the context of a rising armed robbery rate it was hoped that regulating firearms would restrict access to them by those committing robbery, many of whom commit the offence without much planning or preparation. But Fig 4 shows a significant increase in the number of armed robberies involving the use of a firearm in the period following the introduction of the *Guns Act* 1991. In percentage terms the increase is one of 51.2%. In most cases whether the gun was loaded was either not known or not recorded (almost 90%) but in 8% of incidents it was known to be loaded, usually because the gun was actually fired (6.5%). Although it is rare for the firearm to be actually discharged, nevertheless the potential for serious harm in such cases is obvious even if no harm is intended. In one case in 1994 for example, two offenders entered the office of a service station in the early hours of the morning. One pointed a loaded shotgun at the employee and demanded money. The shot gun discharged seriously injuring and permanently disabling the employee. It was accepted that discharging the gun was unintentional.<sup>42</sup>

At first sight the increase in firearm robberies suggests the *Guns Act* 1991 has had no impact in curbing the use of firearms in armed robberies. However the figures on firearm robberies cannot be viewed in isolation. How do the increases in firearm robberies relate to the incidence of all robberies in the period and to longer term trends in the incidence of this crime? Has the proportion of robberies in which firearms are used increased or declined? If the proportion has declined, have other weapons displaced firearms?

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<sup>42</sup> *R v Homes and Hancock*, Zeeman J, 30/11/1994; Tasinlaw, Sentencing database.

From the mid-1980's steady increases in armed and unarmed robbery have been recorded. Reports of the Commissioner of Police show that from 1985-1986 there were 34 recorded robberies.<sup>43</sup> By 1997 this had increased to 137. Until 1991 these statistics do not distinguish between armed and unarmed robberies and while they make this distinction from 1991 on, they do not indicate the type of weapon used in the armed robbery. The Australian Bureau of Statistics has published data on the type of weapon used in armed robberies since 1993. This data shows an increase in Tasmania in the number of robberies between 1993 and 1997, but, apart from a rise in 1994, it shows there has been no corresponding increase in the use of robberies with firearms, nor has there been steady increase in the number of armed robberies (see Table 17 below).

**TABLE 17: ARMED & UNARMED ROBBERIES, by use of weapon in commission of offence, Tasmania, 1993-1997**

Use of weapon	1993		1994		1995		1996		1997	
	No	%	No	%	No	%	No	%	No	%
Armed robbery	45	42.5	62	42.2	61	48.8	48	33.6	45	30.2
Firearm	18	17.0	24	16.3	15	12.0	15	10.5	16	10.7
Other weapon	24	22.6	33	22.4	44	35.2	31	21.7	29	19.5
Weapon (nfd)	3	2.8	5	3.4	2	1.6	2	1.4	-	-
Unarmed robbery	61	57.5	85	57.8	64	51.2	95	66.4	104	69.8
Total	106	100	147	100	125	100	143	100	149	100

Source: ABS, *National Crime Statistics, 1993-1995, Recorded Crime 1996-1997*, Cat no 4510.0

So while the data in Fig 8 shows that in the years in which the *Guns Act 1991* was in operation there was an increase in the number of reported firearm robberies in comparison with the three years before, the ABS data for 1993-1997 in Table 17 shows there was no dramatic or even a consistent increase in the number of armed robberies involving firearms over this period. Table 17 also shows that the proportion of robberies employing a firearm as a weapon has been declining since 1993. To place the results

<sup>43</sup> Department of Police and Emergency Services, *Annual Report*, 1990 p 110.

relating to firearm use in robbery in Fig 4 and Table 17 in the context of longer term robbery trends, data was compiled from Police Department records to show the numbers of robberies from 1988 to 1997 and the types of weapons used.

**TABLE 18: ARMED & UNARMED ROBBERIES, by use of weapon in commission of offence, Tasmania, 1993-1997**

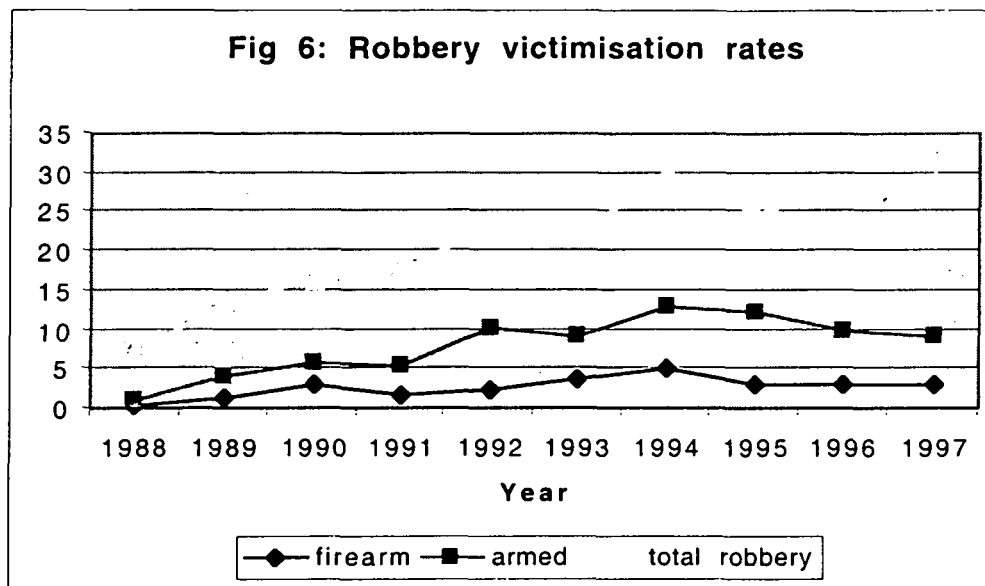
	1988		1989		1990		1991		1992		1993		1994		1995		1996		1997	
Armed robbery	5	16.1	19	30.6	27	36.0	26	31.8	48	44.0	43	41.3	61	42.7	58	49.2	46	34.8	44	32.1
Firearm	2	6.5	7	11.3	14	18.7	8	9.8	11	10.1	17	16.3	24	16.8	15	12.7	14	10.6	15	10.9
Knife	1	3.2	4	6.5	8	10.7	6	7.3	18	16.5	18	17.3	22	15.4	21	17.8	20	15.2	19	13.9
Weapon (nfd)	2	6.5	8	12.9	5	6.7	12	14.6	19	17.4	8	7.6	15	10.5	22	18.6	12	9.1	10	7.3
Unarmed robbery	26	83.9	43	69.4	48	64.0	56	68.3	61	56.0	61	58.7	82	57.3	60	50.9	86	65.2	93	67.9
Total	31	100	62	100	75	100	82	100	109	100	104	100	143	100	118	100	132	100	137	100

Source: Police Department, offences recorded 1988-1997

**TABLE 19: Robbery victimisation, Rates per 100,00 total population, Tasmania, 1988-1997**

	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Firearm robbery	0.4	1.5	3.0	1.7	2.3	3.6	5.1	3.2	3.0	3.2
Armed robbery	1.1	4.2	5.8	5.6	10.2	9.1	12.9	12.2	9.7	9.3
Total robbery	6.9	13.6	16.2	17.6	23.2	22.0	30.2	24.9	27.8	28.9

Source: Police Department, offences recorded, 1988-1997



**TABLE 20: Robbery victimisation, Rates per 100,00 total population, Tasmania, 1988-1995**

	1988	1989	1990	1991	1992	1993	1994	1995
Number	2	9	14	9	18	22	25	16
Rate	0.4	2.0	3.0	1.9	3.8	4.7	5.3	3.4

Source: Police Department COMORs

Table 19 and Fig 6 show a fluctuating but increasing trend in firearm robberies until 1994 with the number and rate dropping back over the next three years. So from a rate of 0.4 per 100,000 in 1988 the rate peaked at 5.1 in 1994 before dropping to between 3.0 and 3.2 in 1995 and 1997. The pattern for all robberies was similar until 1995 with the total robbery rate peaking in 1994 before dropping in 1995. The total robbery rate now appears to be creeping back up. Data obtained from COMORs (see Table 20) confirms the general pattern in relation for firearm robberies in Table 19 and Fig 6 with a peak in 1994 before a decline, but the increase after 1991 is more gradual and the peak slightly higher.

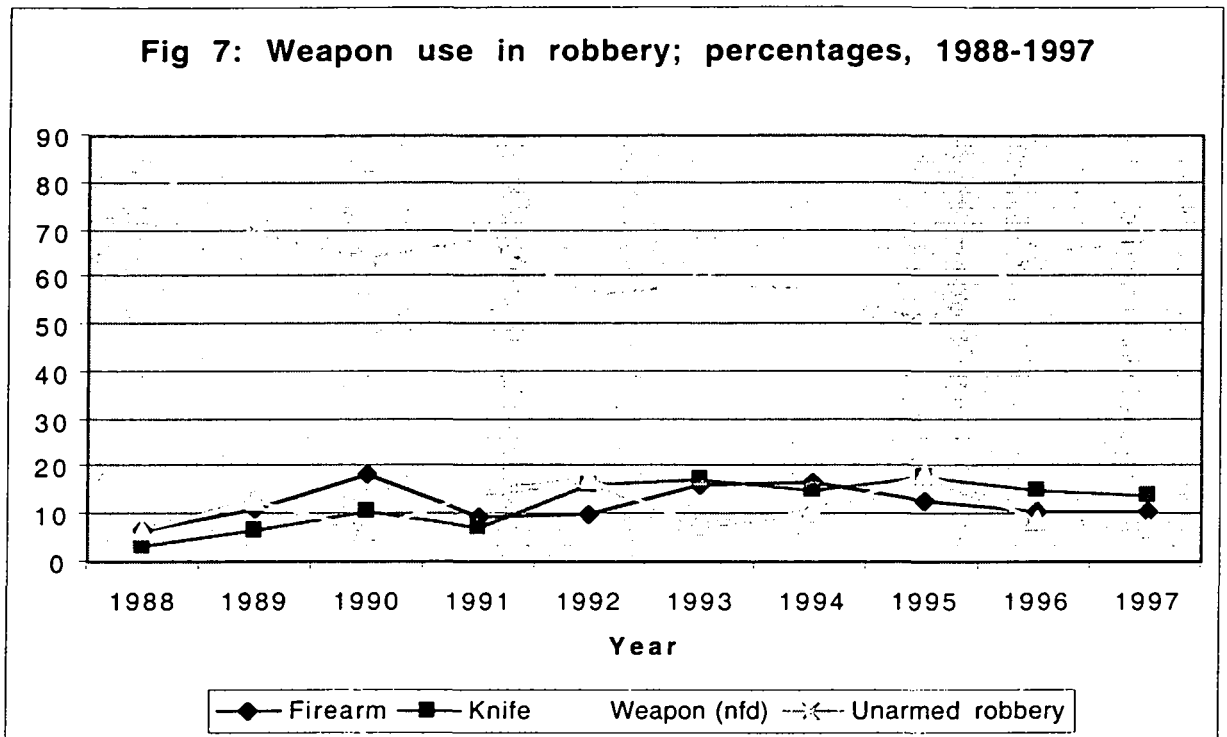


Fig 7 shows that the proportion of robberies involving firearms fluctuated from 1988-1997 but it began decreasing from the third year after the *Guns Act*. It would appear from Fig 7 that knives are now more frequently used in robberies than firearms, and that since 1995 a greater proportion of robberies are unarmed.

In summary the position in relation to robbery in Tasmania appears to be this. Despite the firearms legislation, an increase in firearm robberies followed, although the rate appears to have decreased and stabilised in the last three years (1995-1997). In contrast the total robbery rate may be again increasing. The proportion of robberies in which a firearm was used increased in the first two years of the post *Guns Act* period but has since decreased. There appears to be some displacement of firearms by knives in armed robberies but since 1995 the proportion of unarmed robberies has increased.

**Are robberies with firearms more prevalent in Tasmania than elsewhere?**

The Tasmanian position can be compared with that of Australia as a whole by comparing the data in Table 17 and Table 20. This shows the general trends where similar. The numbers of robberies increased nationally over this period but at a greater rate than in Tasmania – there was a 40% increase nationally from 1993 to 1997 compared with a 29% increase in Tasmania.

**TABLE 21: ARMED & UNARMED ROBBERIES, by use of weapon in commission of offence: Australia**

Use of weapon	1993		1994		1995		1996		1997	
	No	%	No	%	No	%	No	%	No	%
Armed robbery	5308	41.6	5060	36.2	6631	40.3	6217	38.0	9015	42.4
Firearm	1979	15.5	1817	13.0	2060	12.5	1565	9.6	2183	10.3
Other weapon	3089	24.2	2776	19.9	3759	22.8	4019	24.6	5985	28.2
Weapon (nfd)	240	1.8	467	3.3	812	4.9	633	3.9	847	4.0
Unarmed robbery	7457	58.4	8923	63.8	9835	59.7	10129	62.0	12246	57.6
Total	12765	100	13983	100	16466	100	16346	100	21261	100

Source: ABS, *National Crime Statistics, 1993-1995, Recorded Crime 1996-1997*, Cat no 4510.0



A comparison of victimisation rates for robbery, armed robbery and firearm-robbery shows that Tasmania has a much lower rate than the country as a whole.

**TABLE 22: Robbery victimisation, Rates per 100,00 population, Australia and Tasmania**

	1993	1994	1995	1996	1997
Australia	72.3	78.3	91.1	89.2	114.7
Tasmania	22.5	31.1	26.4	30.1	31.5

Source: ABS, National Crime Statistics 1993-1995, Recorded Crime, 1996, 1997

**TABLE 23: Armed robbery victimisation, Rates per 100,00 population, Australia and Tasmania**

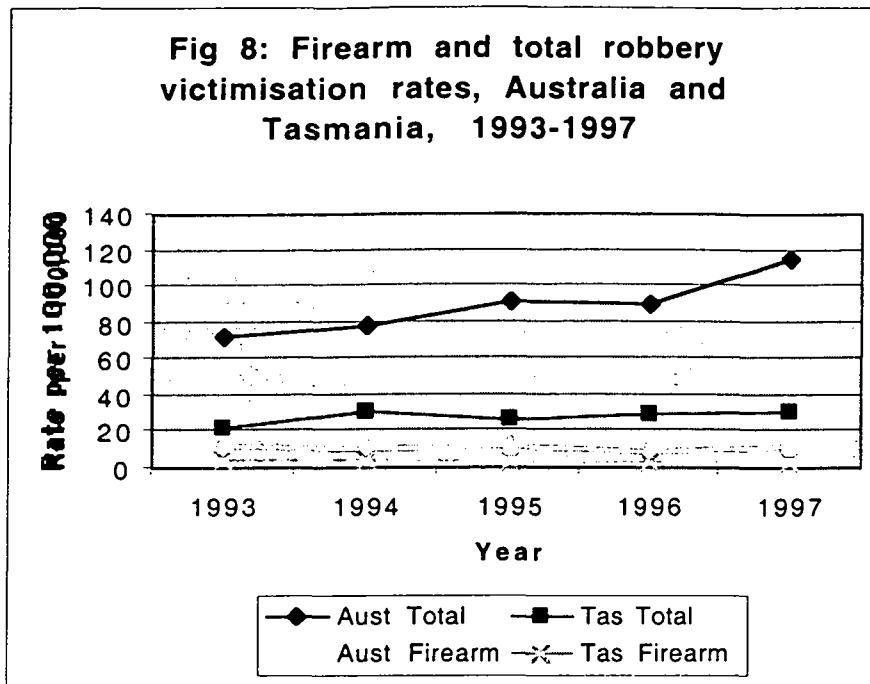
	1993	1994	1995	1996	1997
Australia	30.0	28.3	36.7	55.3	48.64
Tasmania	9.5	13.2	12.9	10.1	9.50

Source: ABS, National Crime Statistics 1993-1995, Recorded Crime, 1996, 1997

**TABLE 24: Firearm robbery victimisation, Rates per 100,00 population, Australia, States and Territories, 1993-1997**

	1993	1994	1995	1996	1997
Tasmania	3.8	5.1	3.2	3.2	3.4
Australia	11.2	10.2	11.4	8.5	11.8
NSW	13.7	13.5	21.1	13.3	20.0
Vic	7.8	4.5	2.9	3.4	4.9
Qld	15.2	12.7	9.3	8.6	10.8
SA	10.9	10.1	6.4	4.9	6.1
WA	8.2	11.9	11.1	10.2	11.6
NT	3.5	1.7	2.3	1.6	.5
ACT	6.5	3.6	8.2	7.8	7.8

Source: National Crime Statistics 1993-1996, Reported Crime 1996-1997, and Population by Age and Sex, 3201.0, 1988-1997.



The rates per 100,000 of total population also show that robbery has generally been increasing between 1993 and 1997 and that it has increased more slowly in Tasmania than in Australia as a whole. In Tasmania and nationally the firearm robbery rate has remained relatively stable. Comparing Tasmania with the other states and territories, Tasmania had the lowest robbery rate in each of the years 1993-1997. However in terms of firearm-armed robbery, while it was lower than the national rate it was not the lowest – the Northern Territory was the lowest in each of the years. Tasmania was the second lowest after the Northern Territory in 1993, 1996 and 1997. In 1994 and 1995 Victoria had lower rates as did the Australian Capital Territory in 1994.

**TABLE 25: Proportion of robberies involving firearms, 1993-1997**

	1993	1994	1995	1996	1997
Australia	15.5	13.0	12.5	9.6	10.3
Tasmania	17.0	16.3	12.0	10.5	10.7
NSW	13.7	11.2	13.5	9.4	10.0
Vic	18.1	12.4	8.1	8.2	9.1
Qld	24.7	21.0	15.6	13.5	15.1
SA	9.3	9.8	6.4	5.4	7.3
WA	14.2	16.6	13.8	10.4	9.8
NT	12.8	5.7	5.3	2.8	1.4
ACT	14.0	8.5	15.6	11.8	10.5

Table 25 shows that in all jurisdictions the proportion of firearm related robberies showed a diminishing trend in the years 1993-1997. But as we have seen from Table 18 and Fig7, for Tasmania at least, the current percentages are similar to pre-1993 figures. The proportion of robberies in Tasmania that involved the use of a firearm was higher than the Australian rate in all years from 1993-1997 except 1995. The Northern Territory had the lowest proportion of robberies with a firearm and Queensland the highest.

### **Aggravated burglary**

From 1982 until 1997 aggravated burglary was defined in s 245 of the Criminal Code as a burglary committed with an offensive weapon or instrument or any explosive substance or a burglary when violence was used or offered to any person while committing the burglary or leaving the place in relation to which the burglary was committed. The current definition of aggravated burglary is much wider; it now also includes burglary of a dwelling house and burglary committed in company. Police Department Annual Reports do not report separately on the number of aggravated burglaries nor does the ABS series deal with it as a separate category.

It follows from the definition of aggravated burglary that the use of a firearm will make the burglary an aggravated burglary if the premises or place is entered when the offender or an accomplice is armed with a firearm. If a firearm is found in the premises and it is used to offer violence to any person while the offender is still in, or leaving, the place in which the burglary is committed, the burglary will also be in its aggravated form. Where violence is used or threatened to any person and the premises were entered with intent to steal, there is an overlap with robbery. In such circumstances a more serious offence is likely to be recorded with respect to the incident.

Table 9 shows that there was a drop in the number of reported aggravated burglaries with a firearm in the post *Guns Act* period. Cases of reported aggravated burglary in which a firearm is used are quite rare. This is understandable. Unless the offender is observed, the fact the burglary is aggravated by the use of firearm is unlikely to be known. It follows that little significance can be attached to the decrease in firearm aggravated burglaries in the three years after the introduction of the *Guns Act*.

### **Burglary and stealing**

If a firearm is used to commit a burglary, or if one is used to inflict or threaten violence to any person in the course of a burglary or when leaving the place burgled, the crime is one of aggravated burglary. A firearm may of course be stolen in the course of a burglary. Because the focus of the project was the use of firearms in the commission of crime, cases involving the stealing of firearms were not recorded. Data on the theft of firearms is important in terms of firearm control as one measure of the size of the black market in firearms. In hindsight it would have been valuable to collect this data from the COMORs, however there were insufficient resources to return to the microfiche to gather

the pre-1994 data for the purpose of this study. From the beginning of 1994 COMORs are entered into a computer data-base and cases of burglary involving the theft of firearms can be retrieved. This was done and shows that from 1 January 1994 there were 192 incidents involving the burglary and theft of firearms and 13 incidents of theft of firearms that were not committed in the course of a burglary.

### Damage to property

The damage or destruction of property may be either an indictable offence contrary to the Criminal Code, s 273, or it may be charged as a summary offence contrary to the *Police Offences Act* 1935, s 37. The offence is usually dealt with summarily unless it is associated with burglary and assault. While not as prevalent as burglary or stealing, it is a prevalent offence.<sup>44</sup> Table 26 shows that firearms are quite frequently used in the commission of this offence. Typical examples are windows broken by the discharge of a firearm, frequently windows of residential premises but there are numerous examples of the windows of business premises, schools, hotels and cars being so damaged. Occasionally too, there were reports of gun fire damaging the interior of houses, inside walls, furniture and paintings. There were many reports of Hydro Electric Commission property being damaged by gun fire: insulators, cables, wires etc. In one case it was noted that the damage caused a power surge and power failure. National Parks and Wildlife signs seem also to attract gun fire and resultant damage. There were also reports of street lights and traffic lights being broken by gun fire. Security lights and a navigation beacon were damaged. The cost of such damage is considerable. Moreover such damage is likely to cause considerable anxiety to the owners or occupiers of the property, particularly if the gunfire is heard.

Table 9 indicates there was neither an increase or a decrease in the number of firearm-related damage in the period after the *Guns Act* came into operation. Table 26 and Table 27 show the number and rate of offences causing damage to property by firearms was stable from 1988 until 1991, that in 1992 there was a significant increase, and then a decline in the years the *Guns Act* was in operation. This supports the impression of National Parks and Wildlife Officers that there has been a decline in firearm damage to signs and property.<sup>45</sup> Trends in firearm damage to property offences contrast with the pattern for total damage to property offences. While the number and rate was reasonably stable in the pre *Guns Act* period, from 1993 there was a significant increase in the number and rate of damage to property offences. The annual average rate of damage to property offences per 100,000 of population doubled in post *Guns Act* period of 1993-1996. It follows that the proportion of damage to property offences caused by a firearm has declined in the post *Guns Act* period.

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<sup>44</sup> See Department of Police and Public Safety, *Annual Report*, 1996, p 85

<sup>45</sup> The amount of damage to National Park property is not officially documented, so this cannot be tested.

**TABLE 26: DAMAGE TO PROPERTY, by firearm damage and other causes, Tasmania, 1998-1997**

	1988		1989		1990		1991		1992		1993		1994		1995		1996	
Firearm used	53	1.8	52	1.5	53	1.7	53	1.5	93	2.7	71	1.7	85	1.6	53	.9	66*	1.0
No firearm used	2947	98.2	3347		3077	98.3	3400	98.5	3350	97.3	4126	98.3	5120	98.4	5482	99.1	6222	99.0
Total	3000	100	3399	100	3130	100	3453	100	3443	100	4197	100	5205	100	5535	100	6288	100

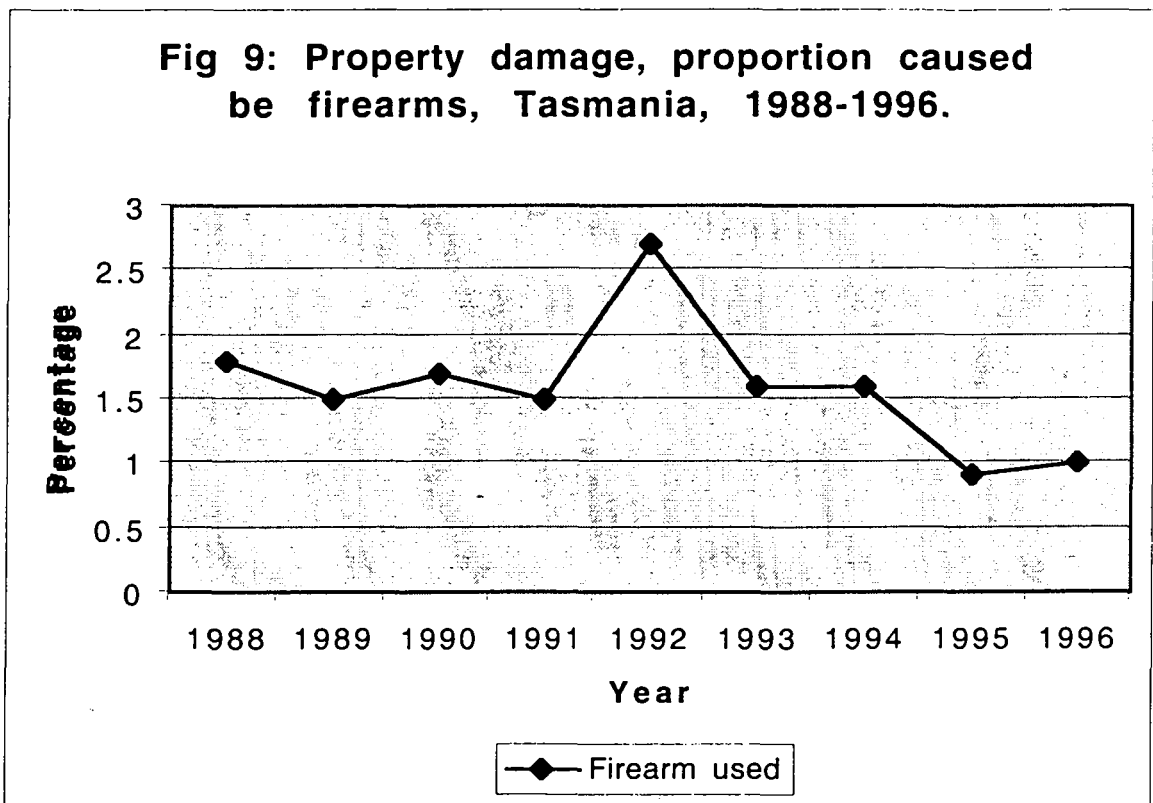
. Source: COMORs and Police Department Statistics, offences recorded, 1988-1996.

\* estimated- based on Jan-April figures

**TABLE 28: Firearm damage to property and total damage to property, Rates Per 100,000, Tasmania 1989-1997, Tasmania**

	1988	1989	1990	1991	1992	1993	1994	1995	1996
Firearm damage	11.7	11.4	11.5	11.4	19.8	15.1	18.0	11.2	14.6*
Total damage	665.0	746.6	677.2	739.7	732.8	889.8	1100.1	1168.6	2723.2

Source: COMORs and Police Department statistics, offences recorded 1988-1997



## **Killing, maiming or injuring cattle and other animals**

Killing, maiming or wounding cattle is an indictable offence contrary to the *Criminal Code* s 274. It is also a summary offence contrary to the *Police Offences Act* 1935, s 37(2) to unlawfully kill, maim or wound any animal which is the property of another person. Fig4 shows a slight decrease in the number of offences recorded by the police in this period, however if the annual figures in Table 9 are examined a decreasing trend is not so apparent. Moreover if the number of animals killed or wounded is calculated there were more animals killed or wounded in the period after the *Guns Act* than before.<sup>46</sup>

## **4 FIREARMS OFFENCES**

Table 9 includes a number of firearms offences: unlawfully discharging a firearm, unlawful possession of a firearm and being armed in public. Data on known firearms offences are not separately recorded in the Police Statistics of offences recorded and cleared so the number of offences found on the COMORs could not be compared and police statistics of recorded offences. Table 9 only includes the most serious offence against each victim in an incident; so many examples of firearms offences are not captured by the Table.

### **Discharge of a firearm**

Discharging a firearm was an offence contrary to the *Police Offences Act* 1935, s 24 if it was discharged without reasonable cause from, on to, or over a street or public road or was wantonly or recklessly discharged in a public place. Discharging a firearm on to farmland without the permission of the occupier was also an offence contrary to s 24A. These offences were repealed by the *Guns Act* 1991 and similar offences were included in that Act in s 57 - s 59.

Table 9 shows that there was a slight increase in the number of reported offences of unlawful discharge after the *Guns Act* came into operation. But if all offences of unlawful discharge are counted rather than incidents where it was the most serious offence, there was a decline. The narratives in the COMORs indicate the kinds of incidents that are recorded as unlawful discharge of a firearm. Many of these are cases that involve damage to property although the police do not always record this as the offence. For example, incidents of discharge in Table 9, which includes only the most serious offence recorded by the police in the incident,<sup>47</sup> include damage to cars and the windows and doors of houses. There are cases that resulted in a person being shot at or injured which are recorded as unlawful discharge of a firearm rather than assault. In one incident, gunfire broke a window and a woman sitting at her kitchen table was wounded by broken glass. In another, an offender, who was shooting at apples in a neighbouring garden, accidentally shot the complainant. Children riding their bicycles were shot at; an

<sup>46</sup> There were 77 killed in the first period and 114 in the second.

<sup>47</sup> See the counting rules at page 8.

offender who fired a .22 rifle in the direction of a police officer claimed he was shooting at a tree. Shots were also fired in such places as motel grounds, council reserves, into and across streets and from cars. Shots were fired into the air after arguments and in one case, at a hotel roof after the publican asked some customers to leave. Fleeing suspects discharged a firearm. A wallaby on private land was shot and in another incident, a dog was shot in the paw whilst two 8 year-old children were taking it for a walk.

### **Unlawful possession of a firearm**

Prior to the imposition of licensing requirements by the *Guns Act*, offences of unlawful possession of firearms were confined to possession of pistols without a licence (under the *Firearms Act 1932*) and possession of firearms by a person under the age of 16 (*Police Offences Act 1935*, s 22). Possession of a silencer was also an offence under the *Firearms Act 1932*. The *Guns Act 1991* s 7 made possession of a 'gun' without a licence an offence. Table 9 shows very few offences of unlawful possession were recorded either before or after the *Guns Act*. This is so even when all recorded offences of unlawful possession are counted. It is surprising that in the light of licence requirements for firearms after 1993 that there was not a significant increase in the number of recorded offences for unlawful possession. In fact the data in Table 29 shows there were a considerable number of prosecutions for possession without a licence or permit under the *Guns Act* in 1994–1996.

The narratives in the COMORs for unlawful possession in the period before the *Guns Act* became operative described a number of offences of unlawful possession of pistols, sawn-off firearms and silencers – typically cases where a firearm/silencer was found by the police during a search. In the post *Guns Act* period the offences were similar, stolen or unlicensed firearms found by the police during searches for stolen property with a few cases of unlicensed offenders using firearms to commit an offence.

## **5 HOSPITAL ADMISSIONS FOR GUNSHOT WOUNDS**

Based on a national survey of hospital admissions for 1992/3, it was estimated that about 500 hospital admissions each year in Australia are due to non fatal firearm related injuries.<sup>48</sup> The study found that two thirds of the injuries related to firearms were unintentional. While very few died in hospital, the treatment of all hospitalised cases required over 4000 bed days. Clearly accidental gunshot wounds are a not insignificant problem in Australia.<sup>49</sup>

Data was collected from public hospital records to determine if the *Guns Act* had any impact on the number of admissions for gun-shot wounds. The data covered the following regions: the South, the North and the North-West.

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<sup>48</sup> J Harrison, J Moller and S Bordeaux, 'Injury by Firearms Australia 1994', <<http://www.nisu.flinders.edu.au>>

<sup>49</sup> Ibid at 9.



**TABLE 28: Hospital Admissions for Gunshot wounds, September 1989- April 1996**

Year	South	North	North-West	Total
1989*	3	3	1	7
1990	18	13	7	38
1991	12	8	10	30
1992	23	17	14	54
Total: pre-Act	56	41	32	129
1993	8	12	16	36
1994	4	4	2	10
1995	0	11	7	18
1996*	22	1	1	24
Total: post-Act	34	28	26	88

Source: Public Hospital Records

\* data for 1989 and 1996 includes 4 months only.

Table 28 shows there was a significant decrease in the number of admissions for gun shot wounds in 1994 and 1995. In 1996, in the first four months, there was a dramatic increase because of admissions as a result of the Port Arthur massacre. Despite this, in post *Guns Act* period there was a significant decrease in the number of hospital admissions for gun shot wounds. Information was available with respect to the number of bed days for 70% of patients. The average stay per patient was 6.7 days. The saving in suffering and cost from the apparent reduction in gun-shot wounds has been substantial.

A possible explanation for the decrease in admissions is a trend for private hospitals to open accident and emergency departments. In the South two such departments have been opened in the last five years: St Helens in September 1993 and Calvary in June 1996. These departments were contacted. There have been two admissions for gun shot wounds in the five years that the accident and emergency department at St Helens has been operating. The duty doctor at Calvary had no recollection of gun shot wound admission since that department opened.

## 6 THE IMPACT OF THE GUNS ACT 1991 ON FIREARM OWNERSHIP AND ISSUES OF COMPLIANCE

One of the aims of gun regulation is to try and reduce the number of firearms in the community. There are obvious difficulties with evaluating the impact of the legislation in this respect. And the extent of non-compliance with the legislation is even more difficult to assess. Victim surveys can give some indication of the extent of gun ownership. In January 1989, as part of the International Crime Victims Survey, a question was asked about gun ownership. The responses indicated that an estimated 20.7% of Australian households own a gun, other than an air rifle. No estimate was possible of the number of guns this represents, but in 88% of cases it was a rifle or shotgun, 4.3% said it was a handgun, and 3.1% said they had both types. The other 4.6% were not sure what sort it was. Gun ownership was shown to be highest in rural areas and lowest in cities of one million or more. Therefore it is not surprising that the best estimate for the percent of households owning a gun in Tasmania is between 40 and 45%.<sup>50</sup> In 1992, the year before the *Guns Act* came into force, there were 8,200 registered pistols in Tasmania and 1,500 registered pistol shooters. The Tasmanian Government estimated in 1991 that there were 60,000 long arms in the State but the Firearms Registry considered it was more like 120,000.<sup>51</sup> This latter figure would appear to be much closer to the real figure in the light of the number of licences issued under the *Guns Act* 1991 and the number of firearms surrendered for compensation under the *Firearms Act* 1996, s 146. The last figure for active licences under *Guns Act* 1991 before its repeal in 1996 was 56,786 licenses in the following categories:

Gun Licences	56402
Gun Dealers	133
Security Agents	107
Security Guards	144

The *Guns Act* 1991 contained a permanent amnesty by providing that no action should be taken against a person who voluntarily brought a gun to a police station and surrendered it to the Commissioner. It seems that very few guns were surrendered under this amnesty. However when a national amnesty was declared after Port Arthur there was a much greater response. From 20 May until 30 September 1996 some 748 firearms of all types were surrendered. The permanent amnesty for the voluntary surrender of firearms that a person is not authorised to possess continued under the *Firearms Act* 1996. In addition, s 146 provided for compensation for 'prohibited guns', namely machine guns, self-loading rifles and shotguns and pump action shotguns which had been lawfully acquired before the commencement of the Act and which were surrendered within 12 months of its commencement. The number of "prohibited firearms" surrendered was 34,564.<sup>52</sup> In addition 4,296 other firearms were surrendered. So while many people complied with the *Guns Act* 1991 by obtaining licenses for their firearms it seems the amnesty under the Act

<sup>50</sup> John Walker, 'The Extent of Gun Ownership in Australia', Australian Institute of Criminology, 29/8/1991.

<sup>51</sup> Anita Scandia, Australian Institute of Criminology, 29 August 1991.

<sup>52</sup> Figures provided to the Commonwealth to 30/6/1988 by the Firearms Registry.

and the need for a licence had little impact in reducing the number of firearms. The only available indicator of the extent of non-compliance with the Act is the number of charges laid for breach of its provisions. Table 29 shows there were a total of 491 prosecutions for possession of a firearm with a licence or permit contrary to s 7(a) of the *Guns Act* 1991.

**TABLE 30: Prosecutions for Breaches of the Guns Act 1991, 1993-1997, Total Charges**

OFFENCE	1993	1994	1995	1996	1997	TOTAL
Possession without a licence/permit : s 7(a)	6	174	147	157	7	491
Unauthorised sale: s 49(2)	0	4	4	7	0	15
Possession of loaded gun in public: s 56(1)	21	19	13	14	1	68
Discharge on or over public place: s 57	10	8	13	7	1	39
Discharge on or over private land: s 58(1)	5	8	5	5	0	23
Reckless discharge of gun: s 59	8	10	18	13	1	50
Possession of gun under the influence: s 67	7	10	8	5	0	30
<b>TOTAL</b>	<b>57</b>	<b>233</b>	<b>208</b>	<b>208</b>	<b>10</b>	<b>716</b>

Source: Police Department, Prosecution system

## 7 SUMMARY OF MAJOR FINDINGS

The *Guns Act* 1991 introduced licensing for all firearms in Tasmania. It aimed to reduce deaths from suicide, to reduce accidents caused by guns and to reduce the level of violence in the community. This study attempted to evaluate these aims by looking at the

impact of the Act on suicide, homicide, accidental gun deaths and injuries, and the use of firearms in crime.

## **Suicide**

The number, rate and proportion of firearm suicides declined in the period of 3 years and 4 months after the Act came into force compared with the period of 3 years and 4 months before. The number declined by 34%. Moreover it seems the number of suicides committed with a recently acquired weapon diminished in the post Act period. Tasmania had the highest gun suicide rate in seven of the ten years before the Act came into force. Since then Act Tasmania has still had a rate above the national rate but the rate dropped significantly in the last three years for which national statistics are available (1995-1997). Tasmania no longer has the highest firearm suicide rate; the Queensland and Northern Territory rates exceed it. The firearm suicide rate has been declining in the post Act period nationally and in Tasmania. But nationally the declining suicide rate has not been accompanied by a declining total suicide rate. Rather the proportion of suicides committed with a firearm has decreased. But in Tasmania, where the proportion of suicides committed with a firearm has also decreased, a reduction in the firearm suicide rate has been accompanied by a declining total rate. So Tasmania has gone from having a total suicide rate above the national average to one which, in 1997, was below it.

## **Homicide**

Nationally there was a drop in the rate of firearm homicides between 1983 and 1994 but the rate has since stabilised. Unlike firearm suicide there was no continuing reduction from 1995 to 1997. Tasmania has had a total homicide rate that is consistently below the national rate but a firearm homicide rate that fluctuates above and below it. In the post Act period there was a dramatic increase in the number of firearm homicides because of the Port Arthur massacre in which 35 people were fatally shot.

## **Assault**

The details of the assaults committed with a firearm showed that many of the incidents occurred in the context of a family dispute. About half were committed in dwelling houses. The firearm was actually discharged in a third of all incidents and in an additional 10 per cent, the gun was known to be loaded. The number and rate of firearm assaults increased in the post Act period. There was a 21 per cent increase in the number of firearm assaults. The firearm assault rate also increased in the post Act period and the temporal behaviour of the total assault rate mirrored the firearm assault rate. Data for 1997 suggests the position may now be changing with decreases in the number and rate of firearm assaults and in the proportion of assaults in which a firearm is used. But Tasmania still has the second highest firearm assault rate in Australia even though it has an assault rate which is consistently well below the national rate.

## **Armed robbery**

The number and rate of firearm robberies increased in the post *Guns Act* period but they appeared to peak in 1994. In the period of 3 years 4 months after the Act came into effect the number of robberies using a firearm increased by 51%. The firearm robbery rate increased from 1988 until 1994 when it peaked before dropping for the next 3 years. The pattern for all robberies was similar until 1995. Since then the total robbery rate appears to be creeping back up. From 1995 the proportion of robberies using firearms has declined; knives are now more frequently used than guns and a greater proportion of robberies are unarmed.

From 1993-1997 Tasmania had the lowest robbery rate in Australia but while the firearm robbery rate was low it was not the lowest. In contrast the proportion of robberies which used a firearm as a weapon was the highest in Tasmania in all years from 1993 – 1997, except for 1995.

## **Damage to property**

The most common offence in a firearm related incident in the study was damage to property. There was no change in the number of incidents of firearm damage to property in the post Act period compared with pre Act period but the proportion of damage to property offences caused by a firearm declined from 1993 -1996. In 1992 there was an increase in the number and rate of firearm damage to property offences but the trend in the number and rate was generally downward from 1993. In contrast the number and rate of all damage to property offences increased significantly from 1993 to 1996 accompanied by a decrease in the proportion of such offences that were caused by gunfire.

The position in relation to killing or wounding animals is similar. There was no increase in incidents, rather a small decrease.

## **Hospital admissions for gunshot wounds**

Data from public hospital records suggests there was a considerable reduction in the number of admissions for gunshot wounds in the post Act period – a 32% decrease. In bed day terms this amounted to some 270 days.

# COMO

File No.	
Date	
Time	
Town or Suburb	
Type of Location	
Type of Incident	
Name of Victim	
Name of Offender	
V's rel'ship to Offender	
Description of Firearm	
Loaded?	
Discharged?	
Registered?	
Extent of injury	
Other Info	

# Coroner's Reports

File Number

Finding

Name of Victim

Sex  Male  Female

Date of Birth

Age

Time of Day

Type of Location

Date

Location

Bullet entry site

Entry Site

Mental Illness  Yes  No  UnknownSuicide note  Yes  No  Unknown  Not relThreats made  Yes  No  Unknown  Not rel

Alcohol\_Drugs

No. attempts

Previous  None Self mutilation Jumping off high places Suspicious Road Acc Otherattempts  Unknown Overdose Poisoning Firearm Related Yes but method not specified Hanging Gassing Drowning

Type of Gun

Condition of gun

When obtained firearm

Gun Purchase Date

Gun Ownership

Gun Licence  Yes  No  UnknownGun Registration  Yes  No  UnknownEfficient safety device  Yes  No  Unknown

Trigger pressure

Liable to accidental discharge  Yes  No  Unknown

Ballistics Related

Other Information

Hospital

# Hospital

File No.

Date  Time

Admission Date  Discharge Date

Town or Suburb

Type of Location

Type of Incident

Name of Victim

Sex  Male  Female Age

Name of Offender

V's rel'ship to Offender

Description of Firearm

Loaded?  Discharged?  Registered?

Extent of injury

Bed Days

Other Info