

GUARDIANS OF THE CHARIOTS

*Regulation of the Car Guarding
Sector in South Africa*



PSIRA
Private Security Industry Regulatory Authority



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EXECUTIVE SUMMARY

The study assesses the car guarding sector with special reference to the Republic of South Africa. The aim of the report is to establish possible solutions, which, when implemented, will better regulate the car guarding sector – in order to ensure that the sector is compliant with Private Security Industry Regulation Act 56 of 2001 (PSiR Act). The PSiR Act define a security service as including *protecting or safeguarding a person or a property in any manner*. Therefore, car guarding or car watching can be considered to be *protecting or safeguarding [cars] in any manner*, in terms of the law. A noticeable increase of car guards within parking lots prompted the undertaking of this research. The study adopted an interpretivism research paradigm making the study qualitative in nature. Interviews and observations were selected as data collection instruments. The research covers: the literature on car guarding; how car guarding developed in the country; working conditions that car guards faced on a daily basis; the opportunities in car guarding sector; the need for car guarding to be regulated.

The findings of the study revealed widespread non-compliance to the PSiR Act. In an effort to evade the PSiR Act, many transgressors employ semantics as a tactic. The concept of car guarding in some places was found to have been changed to *trolley assistant*, *customer assistant*, *parking marshal* or *car park assistant*. Most South African car guards were aware of PSiRA and were found to be registered but not

linked to companies. No foreign nationals were found to be registered. Some were aware of PSiRA but not registered. The driving forces that bring people into car guarding vary. The main reasons included poverty and unemployment, and a shortage of the skills necessary to enter into formal employment.

The car guarding sector was found to be exploitative. Some car guards were expected to pay a daily *bay fee* in order to operate in parking lots. Car guards are exposed to many unfavourable conditions, like being on their feet in all kinds of weather. The involvement of foreign nationals (without permanent residence permits) in the sector was widespread and is considered to be a way of getting cheap labour. Research also revealed gender-based and racial-based dominancy dynamics.

Recommendations on how to regulate car guarding in South Africa have also been made in this report: introduce a biometric system which will help to identify those who were rearrested for operating illegal within the parking lots; strengthen relationship with government departments and establish one where necessary; consider the establishment of a sub-unit within the Authority dedicated to car guarding. The Authority is also encouraged to promote public awareness in order to ensure compliance with the PSiR Act.

ACRONYMS AND ABBREVIATIONS

| | |
|--------------|---|
| CBD | Central Business District |
| DoL | Department of Labour |
| DRC | Democratic Republic of Congo |
| <i>Et al</i> | <i>Et alia</i> "and others" |
| Etc. | Et cetera "and so on" |
| FIC | First Information of Crime |
| IPID | Independent Police Investigative Directorate |
| NPA | National Prosecuting Authority |
| PSiRA | Private Security Industry Regulatory Authority |
| PSiR Act | Private Security Industry Regulation Act 56 of 2001 |
| SAPS | South African Police Service |
| SOB | Security Officers Board |
| UIF | Unemployment Insurance Fund |

1. INTRODUCTION

Car guarding is one of the viable solutions to vehicle related crimes in the South African parking lots. The country's crime-ridden streets have over the years given rise to an increase of car guards. These car guards, the so-called *super heroes of streets*, operate both legally and illegal in streets, shopping malls and parking centres, among other places. Section 1 of the Private Security Industry Regulation Act 56 of 2001 (PSiR Act) defines a security service as including *protecting or safeguarding a person or a property in any manner*. Car guarding or car watching is, therefore, considered to be *protecting or safeguarding [cars] in any manner*. The majority of *car watchers* or *car guards* are generally non-compliant service providers, and the general public is not aware that the Private Security Industry Regulatory Authority (PSiRA) regulate car guards, as they are security providers. The need to professionalise the subsector cannot be overemphasised. In addition, PSiRA has to play an important role in effectively regulating the subsector and to ensure adequate training standards for purposes of professionalising the same.

The car guarding sector is a growing sector in the private security industry in terms of both registered and unregistered security officers. Car guards, particularly those operating illegally, provide security services and depend on the small donation offered by motorists. Car guards offer services in demarcated parking areas (Steyn, Coetzee & Klopper, 2015). They also assist drivers with parking and to load goods into vehicles (Steyn *et al*, 2015: 16). Car guards play a role in ensuring that vehicles are secure and that there is provision of a safe parking environment. However, it must be noted that even though these watchers assist with guarding vehicles, some of them perpetuate crime (Steyn *et al*, 2015). The title of this report, *Guardian of the chariots* was inspired by the article written by Micheal Robin Wynne (2017) titled *Guardian of the Chariots...the truth about South African Car Guards*.

This report seeks to understand the car guarding sector in an effort to address some of the challenges posed by this sector and inform policy changes within the Authority (PSiRA). It is important to note that the Authority is mandated according to section 3 of PSiR Act, 2001 to *regulate the private security industry and to exercise effective control over the practice of the occupation of security provider in the public and national interest and the interest of the private security industry itself*. The report presents a research hypothesis, research question

and methodology, literature review, classification of car guards, research findings, recommendations, and conclusion.

2. AIM OF THE STUDY, OBJECTIVES, RESEARCH HYPOTHESIS, RESEARCH QUESTION AND METHODOLOGY

2.1 Aim of the study and objectives

The aim of the study is to establish possible solutions to better regulate the car guarding sector, in order to ensure that the sector is compliant with the PSiR Act.

The objectives of the study are to:

- explore the opportunities and challenges that the car-guarding sector creates;
- discover the motives behind people to become car guards in South Africa;
- examine whether the sector is aware of PSiRA as a regulatory body;
- examine the functions of parking and trolley assistants in shopping centres;
- provide possible solutions through the research recommendations on how to better regulate the car guarding sector.

2.2 Hypothesis and Research Questions

The research hypothesis of this study is: *the professionalisation of the car-guarding sector by PSiRA will deter the occurrence of vehicle related crimes in parking lots*.

The research has two types of research questions.

First, the primary research question is: *what role should PSiRA play to ensure effective regulation, adequate training and professionalism of car guards in the private security industry in South Africa?*

Secondly, the secondary research questions are:

1. What are the opportunities and challenges that the car guarding sector is creating?
2. What motivates people to be in the car guarding industry in South Africa?
3. What do people in the car guarding sector know about PSiRA?
4. What are the functions of the parking and trolley assistants (who also provide car-guarding services)?

2.3 Research Methodology

This section discusses the procedures or techniques that the study used to identify, select, process and analyse data about the phenomenon of car guarding. The study is underpinned by the interpretivism research paradigm. Thanh and Thanh (2015) state that the interpretivism paradigm seeks to discover the reality through the participants' views, their own background and experiences. Since the research is exploring the car guarding sector, it is more important to hear the voice of car guards (operating legally or illegally) and their lived experiences in the parking lots. The qualitative research method allows participants to speak for themselves, which is why the research adopted this method. The instruments in this method namely, interview and observation, were used to gather information.

Interviews were selected as the primary data collection instrument for two reasons: first, some of the car guards were not privileged enough to receive formal education and would thus find it difficult to complete a questionnaire; second, the likelihood for participants not to answer the questionnaire was high and this would cause delays in the analysis of data. The type of interview selected was semi-structured. This type of interview includes a set of structured questions that allows a researcher to make follow up questions where there is an unclear statement made, or where the participant reveals additional information that can help to advance the study. Observation helped reveal how things were done, as well as their behavior, particularly the hierarchical arrangement of the car guards and the collection of tips. Validity and reliability of data collection instruments were checked in a pilot study conducted in Nelspruit, East London, Port Elizabeth, Grahamstown and Rustenburg. The data collected in the afore-mentioned places was minimal as the study was still at its inception stage.

In so far as sampling is concerned, the targeted groups were PSiRA officials, car guards and security management of the shopping malls. The purposive sampling method was used. Etikan, Musa, and Alkassim (2016) state that purposive sampling refers to the selection of participants based on the qualities that they possess. Purposive sampling was used to select cities, towns, shopping malls and car guards. For purposes of interviewing any car guard, the researchers had to confirm with the car guard if indeed they were *car guards*. The study was conducted in cities and towns in the country. The researchers used the name of the city or town where data was collected. The malls that appear in the document are from the

following towns and cities: Kimberley, Bloemfontein, Umtata, Polokwane, Rustenburg, Nelspruit, Durban, Vryheid, Pietermaritzburg, Eshowe, Ladysmith, Dundee, Newcastle, Ulundi, Kempton Park, Centurion, Midrand, Krugersdorp, Cape Town, Louis Trichardt, Tzaneen, Thohoyandou and Pretoria. This report used pseudonyms in order to conceal the names of shopping malls, security companies and individuals providing the car guarding service. Further investigations would be carried out in order to ensure compliance in this sector. In this study, content analysis was also used in processing the data collected.

3. LITERATURE REVIEW

The section provides literature on car guarding or car watching sector with special reference to South Africa and other countries. It must be noted that there is scarcity of academic publications on regulating the car-guarding sector. Blaauw and Bothma (2003) assert that there is limited or little publications that were produced, particularly in the South African's car guarding sector. Therefore, this section of the study used limited publications to better understand the car guarding sector.

3.1 History of Car Guarding

The car guarding sector emerged by capitalising on motorists' fear of crime and victimisation by the public, and coincidentally, companies started to make money out of it (Steyn, Coetzee & Klopper, 2015). It was also noted that car guards serve as deterrents to crime (Steyn *et al*, 2015). The sector was flooded with people who were driven by unemployment and had no other means to make money but to provide the service to motorists so that they could receive an income – instead of committing crime or becoming beggars. This served as the solution to the social ills they were faced with (Foster, 2015). Bernstein (2003) argues that high unemployment rate fueled crime and the need for security service in the parking lots.

The sector developed in municipal parking lots, without any bibs being provided to car guards initially. New groups was formed to guard cars in churches, sporting events, shopping centres and hospitals and these received jackets and t-shirts for identification purposes (Blaauw & Bothma, 2003). This is how car guards started wearing bibs. According to Steyn *et al* (2015) car guards are regarded as people with

no skills to compete in the formal labour market. This applies more to South African car guards than with their counterparts of foreign origin, who are reported to have studied in up to secondary level in their countries of origin. Car guards with migrant backgrounds find it difficult to enter the South African labour market due to the fact that, among other things, they do not possess valid South African work permits (Steyn *et al*, 2015).

The question of when exactly car guarding in South Africa emerged remains a contentious issue. Steyn, Coetzee and Klopper (2015) state that car guarding started in Durban in the 90s when a man called Van Zyl was asked to look after a car for somebody who was visiting Durban in the beachfront in exchange for a cash tip. However, Foster (2015) argues that car guarding started in Cape Town in the early 90s when people called *Bergies* who were living at Table Mountain saw the need to watch cars for people who were visiting the mountain. Car watchers were receiving tips from car owners as incentives. According to Spickernell (2016), car guarding started as an *ad hoc* activity where unemployed people started offering a car guarding service in the City's Central Business District (CBD), directing motorists in parking lots and looking after their vehicles in exchange for a *donation*. It is safe to say that car guarding emerged in cities where there was a demand for car guarding services.

3.2 Car Guarding Working Conditions

Car guards generally work under harsh conditions which include being on their feet in cold and hot weather conditions (Steyn *et al*, 2015). Foster (2015) asserts that car guards are subject to prolonged exposure to the sun, which can lead to cancer. They also suffer from dehydration and constantly need water, which increases the risk of other physical afflictions (Foster, 2015). There are no safety measures put in place for this sector; minimum safety standards are, generally, non-existent.

Steyn *et al* (2015) argue that car guards are experiencing challenges financially, are generally not protected against labour abuses, and are ignorant of their rights. Furthermore, it is evident that not all car guards are registered with PSiRA, which calls for the Authority to closely monitor and regulate the sector (Steyn *et al*, 2015). There are greater concerns about the challenge that car guards do not have fixed amounts of tips or donations due to the fact that their work is usually not sanctioned by signed contracts.

Car guards thus rely on voluntary tips from motorists while, on the other hand, they are expected to pay a daily *bay fee* to a security company (Bernstein, 2015).

Foster (2015) observed that car guards do not have personal insurance. This puts them at risk in the event that they are injured at work, or stabbed or shot by criminals when committing crime(s) in the parking lots. Blaauw and Bothma (2003) note that car guards work for long hours without any shifts. There are those who work in the public parking lots during office hours (08h00 until 17h00). This differs from their counterparts who work in shopping centres where shopping centres operate between 09h00 to 19h00, depending on the shopping centre. According to section 9 of the Basic Condition of Employment Act, 1997 *an employer may not require or permit an employee to work more than 45 hours in any week, hours in any day if the employee works for five days or fewer in a week, or eight hours in any day if the employee works on more than a five days in a week*. In shopping centres, car guards generally work for more hours because they also work over weekends when shops are open.

The inclusion of car guards under the sectoral determination 6 was because of the exploitation that was observed in the sector. The guards had no unions to represent them when there are experiencing unfair working conditions. Moreover, the informal evidence indicated that there were illegal exchanges between car guards and security guards, where the latter charged a user fee to operate in the parking lots. After the realization that car guards were working under appalling working conditions, stakeholders demanded that car guards should be afforded protection. According to Employment Condition Commission, car guards were seen to be performing duties of private security officers in parking lots, and they had to be included in Sectoral Determination 6. After consultation with different stakeholders, car guards were covered under Clause 1(2)(a) of the Sectoral Determination 6, which states that *the provision of this determination shall apply to every employer and employee in the private security sector that guards or protects fixed property, premises, goods, persons, or employees including monitoring and responding to alarms at premises which are guarded by persons or by electronic means, including car guards as defined in sub clause (2)(12)*. Sub clause (2)(12) of the Sectoral Determination 6 defines car guard as *an employee who guards vehicles*.

3.3 The Car Guarding Bay Fee Payment

Car guarding agencies (companies and individuals) as well as shopping centres generally exploit car guards in South Africa (Steyn *et al*, 2015). Foster (2015) and Steyn, Coetzee and Klopper (2015) assert that the driving force behind those who enter the car guarding sector in South Africa is poverty and unemployment. South African car guards are generally not educated enough to enter into formal employment (Foster, 2015). This is in stark difference to their counterparts from other countries, who are educated but do not possess the required documents in order to enter into formal employment (Foster, 2015). Foster (2015) and Steyn *et al* (2015) affirm that this issue comes up when foreign nationals (without permanent residency and/or South African citizenship) attempt to register with PSiRA. While some do not meet the requirements to register due to their criminal records, others have not undergone minimum security training. These factors result in the exploitation of car guards (Foster, 2015 and Steyn *et al*, 2015). Car guards have no viable options than to remain in the system to fend for themselves and their families (Foster, 2015).

Steyn *et al* (2015) observe that some car guards have to pay a daily *bay fee* to car guarding agencies or to the shopping centre managers to secure space to guard at. The payments for such spaces vary. Car guards working closer to the shopping centre entrances pay much higher *bay fees* than those who are further from the entrances (Steyn *et al*, 2015). The daily *bay fee* that is expected from a car guard is estimated to be R40 and above (Steyn *et al*, 2015). In addition to the *bay fee*, some are expected to pay R10 more for the clothing provided (uniform) as well as nametags (Foster, 2015). Steyn *et al* (2015) call for the formalisation of car guarding sector in order to protect car guards from exploitation and abuse. Steyn *et al* (2015:22) suggest that policies are needed with regards to the responsibilities of car guard agencies and the managers of shopping centre alike, specifically to address the exploitative levies that car guards are expected to pay.

3.4 Car Guarding Opportunities

The car-guarding sector creates a source of income for most indigent South Africans and serves as a deterrent to crime in parking lots. Foster (2015) makes the point that car guarding creates opportunities to the unemployed and addresses the high rates of

unemployment in the country. However, he notes, that security service should not be compromised under the guise of “reducing unemployment rates”.

Christie (2009) reported that one of the car guards pointed out that they learn English every day in parking lots and that this would assist them if they decide to leave South Africa to work in first world countries like Canada (because *South Africa does not have money*). Car guards themselves view the sector as one of the sectors that can open employment opportunities – even beyond the borders of South Africa. Steyn *et al* (2015) argue that formalising and regulating the car guarding sector has a great potential to create job opportunities to many unemployed South Africans and has a positive spin-off in reducing vehicle related crimes within parking lots.

3.5 The Need for Effective Regulation

The need for the regulation of the car guarding sector cannot be overemphasised. Chirume (2017) reported that in Jeffreys Bay, the municipality had initiated a clampdown project in order to stop informal car guards from operating in Jeffreys Bay. He pointed out that the municipality trained and registered car guards who would work with the local police and private security companies. The registration fee to be a car guard was R47. The introduction of the registration fee was a measure applied to control and manage the car guards. Their bright yellow caps with the words *J-BAY CAR GUARD* were used to identify official car guards.

According to the Berea Mail (2015), the EThekweni Municipality called for the introduction of a regulatory authority to deal with car guards. The proposal urged the city to take control of car guards, to ensure that those working as car guards were screened, provided authorisation, and were accountable. The proposed process was aimed at ensuring that those who genuinely wished to make a living by providing a security service were able to work safely, and that the criminal elements were taken off the streets.

Goodenough (2008) stated that car guards must be registered as a security service provider with PSiRA. Registration requires that the guards are citizens or permanent residents of South Africa, have completed a Grade-E security officer-training course, are at least 18 years old, and are not guilty of certain criminal offences (among others).

4. TYPES OF CAR GUARDS

The car-guarding sector may be divided into five main categories as follows:

4.1 Vagabond Car Guards

These are vagabonds who are usually found in towns, cities, beaches or parking lots. They are usually homeless and are mostly under the influence of alcohol or drugs. They are also found within the shopping complexes in the townships. They are usually referred to as the *Nyaope boys*. The purpose of providing both parking and “security services” is mainly to buy more drugs or intoxicating substances. The vagabond car guard is not registered as a security guard in terms of the PSiR Act and is usually a security threat to any vehicle owner parking their car in the shopping complex. A classic example of those vagabonds include those found in Soshanguve, and along beaches in Port Elizabeth and East London. In order to make more money in the form of tips, they also offer to wash cars to owners, like the ones found in Bloemfontein streets. These car guards are not deployed by any company or individual in their area of operation, they are just *self-employed*.

4.2 Municipality & PSiRA Registered Freelancer Car Guard

These guards are freelancers and they are registered by municipalities to operate as independent car guards. These car guards are also known as *Parking Attendants*. An example of these are found in East London, and they are registered in terms of Regulation 4 of the By-law relating to the Regulation and Control of Parking Attendants in the Nelson Mandela Bay Municipality. While these car guards are also registered with PSiRA, their status reflect that they are unemployed and sometimes their certificates are expired. The car guards only receive payments in the form of tips from the car owners. The Municipality Freelancer car guard is required to pay an amount of R25 in order to be allowed to be a parking attendant in a demarcated area or street in which he or she is permitted to operate.

4.3 Municipality Employed Car Guard

These guards are employed by the Municipality to guard cars within the municipality sites. The cars found within the sites belong to the municipality and its staff, as well as members of the public. These guards are also responsible for protecting municipality property. For purposes of being employed as a car guard, the municipality requires PSiRA registration. Examples of municipality employed car guards are those employed by the Buffalo City Municipality in the Eastern Cape. In a pilot study that was conducted on 21 May 2018, the participants that were interviewed said *these guards are trained at the Nelson Mandela Training College*. It was further noted that 250 guards operate at 380 municipal sites in the Eastern Cape.

4.4 Outsourced Car Guards

These guards are those who are employed by a security company that is contracted to provide car guarding services to the public or on private property. These guards are also deployed in parking areas of the property; however, they are not linked to an outsourced security company according to PSiRA's database. They receive no salary from the outsourced security company and depend on tips provided by motorists. Moreover, they are expected to pay a daily *bay fee* to rent sites. The responsibility of ensuring that these outsourced security guards are registered with PSiRA usually lies with the security company contracted. These car guards claim to be trolley assistants or car park assistants when evading law enforcement.

4.5 Municipality Tourism Safety Ambassadors

These guards are employed by municipalities as tourism safety ambassadors, working as car guards and parking assistants around city centres. A typical example is the safety ambassador project at Ehlanzeni Municipality, which employs unemployed residents of Mbombela. These tourism safety ambassadors are not registered with PSiRA, even though they provide a security service. The justification for their employment is that they ensure safety and security in the city. Hazyview Herald (2016) stated that these ambassadors are part of a programme, which was conceived in 2012 to *formalise the informal car guards in the central business district (CBD) that were mostly involved in criminal acts*. It is noteworthy that only South African citizens are enrolled in the programme.

5. RESEARCH FINDINGS

5.1 PSiRA awareness in the car guarding sector

5.1.1 Aware but not registered

The study revealed that some of the car guards were aware of PSiRA. However, their status on the system reflected that they were not registered.

5.1.2 Registered but not linked to a contracted company

The level of awareness of PSiRA varied in shopping centres around the country. Some car guards were aware and registered, but not linked to the contracted company. Awareness of PSiRA was limited at some shopping centres, where only the supervisors were aware of PSiRA (their statuses reflected unemployed or inactive). None of the supervised guards were registered with PSiRA.

The parking marshals who were working for Company A in LH street were registered and their status appeared as *unemployed/inactive*. This created confusion because, to them, they were working and wanted to know why they were not linked to the company. In this case, the supervisor explained that when the tender was awarded to Company A, a PSiRA certificate was not a listed requirement. He pointed out that the contract was about to end, adding that the municipality had advertised the new post in the Letaba Herald newspaper and its municipal website "Greater Tzaneen Municipality" (SCMU20/2018) where PSiRA certification was a requirement. It was mentioned that the parking marshals would be linked to the company once the tender has been awarded.

5.1.3 Not aware of PSiRA

Research revealed that there were car guards who were not even aware of PSiRA. In most cases these were self-employed or foreign nationals, who were seemingly undocumented. Moreover, some municipal parking marshals were not aware of PSiRA. The municipalities used the name *parking marshals* to avoid regulation by PSiRA. According to parking marshals themselves, they were providing car guarding services, but the name creates the impression that they were not *guards*.

5.1.4 Aware of the Security Officers Board (PSiRA's Predecessor)

A car guard from KK street said that he only knew the Security Officers Board (SOB). He was not aware that the name had changed to PSiRA. He then admitted that the last time he registered was during the time when it was still called SOB. He was registered on the PSiRA database and the status reflected *unemployed/inactive*.

5.1.5 Registered and linked to the security company

In the case of Mall EA and other malls that were visited such as Mall (KM and KL), Mall KN, Mall GS, research revealed that the car guards that were working in the aforementioned places were widely compliant. They were aware of PSiRA, their statuses reflected registered and employed by various security companies. That was an interesting part that showed that car guarding can be regulated. In other places, car guards were registered and would accept tips when given, but do not rely on tips (they receive salaries). That was the case discovered at Mall LK. A car guard working for Company F was getting a salary and stated that motorists do give tips.

5.1.6 Unregistered Security Company with unregistered guards

Some shopping centres contracted unregistered security companies and the majority of their security guards were not aware of PSiRA and not registered. Car guards that were operating within the parking lots at Mall KO were found not to be registered. The guards were also working for an unregistered security company. Guards received a monthly salary from the company not cash tips. The company was contracted to provide security service in the parking lots.

5.2 Motives Behind the Car Guarding Sector

5.2.1 Poverty and unemployment

What was observed from all these shopping complexes is that most individuals who join the car guarding sector was usually driven by poverty and unemployment. In Mall FB and Shopping Centre FC parking lots, car guards were working with their families. The guards from Shopping Centre FC said that the tips they receive from motorists was enough to pay rent and buy food. A car guard working in KC

Street, stated that he joined car guarding because he wanted to earn a living to support himself and his family.

In some shopping malls, security management argued that they were often approached by destitute people without anything in their hands to feed themselves. They ask permission to guard cars within the parking lots in order to get tips. It was noted that the majority of car guards were not involved in criminal activities within the parking lots, which is why they were not removed from the parking lots. An area security manager from Mall LB, who was working for Company F, argued that car guards came to him without anything and said they want to feed their families and he gave them a chance. He said car guards' loyalty in the parking lots showed that they were really in need of a job to support themselves.

In the some cases, women were found to be dominating the sector. The women stated that men were perpetrating crime within the parking lots. They came as a resort to stop criminal behavior in the parking lots committed by car guards and they needed money to support their children. This is consistent with Foster (2015) and Steyn *et al* (2015) assertion that the driving force behind those who enter car guarding sector in South Africa is poverty and unemployment.

5.2.2 Generation of income to cover personal expenses

Research also revealed that pensioners and the elderly joined the sector to supplement their pension. The money made through tips enables them to cover expenses that pension could not. For instance, the pensioner found working in the Shopping Centre KI parking lot said that he can give his grandchildren school tuckshop money when they go to school, and also buy necessities for his family.

Other car guards were guarding part-time. They had their full-time jobs, but car guarding was used to generate supplemental income to cover other expenses. One of the car guards interviewed said that he was working at a furniture shop during the week, and he would do car guarding on weekends or holidays to make money to buy lunch for work. The guard was working at KK Street.

The study discovered that, in most cases, foreign nationals enter the sector to make money while waiting for their residency documents to be approved by the Department of Home Affairs. Some join the sector while pursuing studies at tertiary institutions.

After completing their studies, they leave the industry for better paying jobs. A car guard supervisor at Shopping Centre WE corroborated this assertion. After the guards receive residency documents, they search for formal employment.

The study noted that there were ex-offenders who were providing car guarding, with a view to make money in order to support themselves and their families. This came as a result of the legislation requiring ex-convicts to clear their criminal records before being allowed to work in the formal sector. They could not secure employment – and thus entered the car guarding sector.

Previously convicted individuals are not permitted to provide security services unless their names have been cleared by SAPS. This is a violation of section 23(1)(d) of the PSiR Act which states that *Any natural person applying for registration in terms of section 21, may be registered as a security service provider if the applicant is a fit and proper person to render security service, and was not found guilty of an offence specified in the schedule within a period of 10 years immediately before the submission of the application to the Authority.* It was noted that car guards want to support themselves. However, they pose a threat to the property they look after.

Research revealed that the termination of contracts between the shopping centres and security companies leave security guards unemployed. Some security guards then decide to enter car guarding on a freelance basis in order to be able to finance their applications for new jobs. Car guards at Mall KP reported that they had been working for a security company, which was looking after a mall, and the company's contract was terminated. Other guards join car guarding to maintain their houses/properties and/or personal circumstances.

Research found that the way a car guard dressed is informed by the conditions he or she were working under. It was noted that when guards wear expensive clothes, motorists do not tip as generously – which is why car guards dress to look poor and destitute. They want people to have sympathy towards them and start tipping. One car guard interviewed during the study said that he owned a Nissan NP200 and was able to maintain his vehicle through the tips received, among other things.

5.2.3 Skills shortage

The study discovered that some car guards did not possess the level of education required to enter into

formal employment. Many dropped out of school and were unable to secure other employment, thus regarding car guarding as a viable option. A security manager interviewed at Mall LB explained that the fundamental driver for car guards to join the sector was a lack of other formal skills. The reason why they do not have incidents of crime committed by car guards is because they know that they can be fired anytime, he also pointed out.

5.2.4 Foreign nationals

The majority of car guards from other countries reported that they got their jobs as car guards through friends and acquaintances; they reported that they would not want to be involved in criminal activities within the country. Others could not secure other employment because they were not citizens or permanent residents. Car guarding remains a viable way to earn an income honestly. A Congolese car guard based at Mall WA said that he is a qualified nurse and decided to move to South Africa because nurses were underpaid in the DRC.

5.3 The Functions of Car Guards in relation to Parking and Trolley Assistants

The terminology used differs from one company to the next. However you look at it, *parking marshals*, *car park assistants*, *trolley assistants*, *customer assistants*, *courtesy attendants* and *car guards* are all providing security services. The justification for such a conclusion stems from the fact that majority of these guards were being managed from the security offices that were responsible for security services within shopping centres.

5.3.1 Car park attendants

A security manager at Mall NB stated categorically that there were no car guards in the parking areas – only *Car Park Attendants*. This assertion was (and must be) taken to be disingenuous. The designation *car park attendant* was being used to evade PSiRA requirements. The change of the designation was in reaction to past arrests of non-compliant car guards made by PSiRA, and the impact of labour legislation.

5.3.2 Trolley assistants

Some companies were found to be using the designation *trolley assistant*. In some cases trolley assistants were hired by shops (but they were not standing in the parking lots and waiting for tips) like

Woolworths and Pick 'n Pay. Other so-called *trolley assistants* would assist with trolleys when customers approach their cars, but wouldn't bother if they did not receive a tip. They would leave the trolley unattended in the parking area for trolley assistants hired by retailers to come and collect them. They are perceived as guards in the eyes of the public.

In some shopping malls, it was noted that trolley assistants also clean the parking lots. However, what was observed was different to what was said during an interview. The supervisor who was working in one of the shopping malls pointed out that, if there was any crime committed in the parking lots, the so-called *trolley assistants* would be expected to write statements.

One of the trolley assistants at Shopping Centre GQ said that, when crime occurs in the parking lots, they take the blame. This raises questions as to why they would ask trolley assistants about issues of crime. He said that he agreed with the view that he was indirectly a car guard, because he had to report any criminal activity that occur in the parking lots. The terminology around designations vary from place to place but the duty remains the same: to offer guarding services.

5.3.3 Parking Marshals

The municipalities were found to be using the designation *Parking Marshal* in most cases when referring to car guards. Some municipalities required that parking marshals should be in possession of security certificate and/or PSiRA number in order to perform their duties. The municipality would contract a company to collect revenues for the municipality from the parking marshals. The company would insist on a PSiRA number as a requirement for employment. This was the case with parking marshals found in LH Street. In WG Street the guard that was found there said she was working for Company G and confirmed that PSiRA registration was a requirement to work as a parking marshal.

5.4 The Exploitative Nature of the Car Guarding Sector

It was discovered that the car guarding sector is highly exploitative. The majority of car guards were found to be working for security companies (registered with PSiRA) without being paid. The car guards were registered with PSiRA, but their statuses often reflected *unemployed/inactive* according to the PSiRA

database. They were also not linked to the security company that collects a daily *bay fee*. They were not receiving salaries; they only depended on tips or donations from car owners or drivers for “looking after” their cars. This was despite security guards submitting CVs as if they are being considered for employment.

A security manager employed by Company B in one of the malls around Northern Cape, for instance, said that car guards were employed because one of the requirements for a person to be a car guard at the mall was the submission of a curriculum vitae. In addition to this requirement, it was found at Mall EA that a PSiRA registration number was a requirement in order to qualify for providing car guarding services in the shopping centre. This PSiRA registration requirement was not a guarantee that the car guards would be linked to the security company which engages them, however. In other malls like Mall GG, they actively recruited asylum seekers.

The majority of car guards were logged as *unemployed/inactive* in the PSiRA database. Other car guards were working for individual people who claim to be *negotiators* (that get spaces for car guards to work). Car guards then have to pay him or her for that space. This was observed in Mall GX and Mall GJ where foreign nationals (sometimes undocumented) were hired to provide the service and were expected to pay a *bay fee*.

This study confirms the findings of Steyn *et al* (2015), that car guards experience challenges financially, are generally not protected against labour abuses, and are ignorant of their rights. Further, it was observed in most shopping malls that car guards believe that they are obliged to pay a *bay fee* and that they do not report this issue because they fear losing their jobs. Two female car guards working at Mall FH complained about their money being taken and wanted PSiRA to protect them against these questionable practices.

5.4.1 The Bay Fee Requirement

This study notes the findings of Steyn *et al* (2015) that car guards are paying a daily *bay fee*. Research revealed that some car guards do indeed pay a daily *bay fee* and that they do not receive salaries from the security company. Contrary to what was said by Steyn

et al (2015), however, there were car guards who were found to be working for registered companies and were linked to those companies. However, those guards were not paying a daily *bay fee* because they were receiving a salary. Mall EB serves as an example in this regard.

This study found that the *bay fee* varies from one shopping complex to another and from one parking bay to another, depending on its proximity to a shopping centre’s entrance. In their work, Steyn *et al* (2015) stated that car guards pay a daily rate of R40 and above to secure their spots. In the literature, it was noted that car guards working closer to the shopping centre’s entrances pay a much higher *bay fee* than those who were further from the entrances (Steyn *et al*, 2015). This research confirms Steyn *et al*’s (2015) work.

Researchers taking part in this study found that a busy area’s *bay fee* was higher than a quiet zone. In most cases, the busiest areas were closer to the shopping centres’ entrances.

An outline of how the exploitation of car guards came about, and who the role players are in *bay fee* collection, follows in the subheadings below.

5.4.1.1 Registered Security Companies

The research revealed that some car guards were paying a bay fee to security companies. A manager who was found in one of the malls said that he collects money from car guards and deposits it in Company H (registered security company) account on daily basis. He said that he deposits between R200 and R300 every day.

Regardless of whether a car guard is present or not, the security companies engaging car guards still claimed bay fees. In Bloemfontein, a car guard confirmed that, in the event that the car guard is absent, the security company demands that they still pay the *bay fee*. The minimum amount of money made by these companies through car guards is estimated at R200 000 per month, based on the disclosures made during interviews.

The following table presents an example of how the bay fee of the security companies were collected.

| Shopping Mall | No of guards | Bay fee (R) | | Company |
|---------------------|-----------------|--------------------------------|--------------------|---------|
| | | Daily (R) | Weekly (R) | |
| Mall EA | 9 | 9 | - | I |
| Mall NA | 2 | 40 | - | J |
| Mall NC | 12 | 35 | - | H |
| Shopping Centre FG | | 65 | 100 (on Saturdays) | H |
| Mall FA | 4 | 100 | - | K |
| Mall FH | 30 | 100 | - | K |
| Mall FB | 6 | 100 | - | K |
| Shopping Centre FE | 2 | 140 | - | K |
| Shopping Centre FD | 7 | 60 | - | J |
| Shopping Centre FC | 4 | 30 | - | M |
| Shopping Centre KI | 6 | - | 80 | N |
| Shopping Centre KB1 | 7 | 20 | - | O |
| Shopping Centre LF | 3 | 40 | - | P |
| Mall NWA | Not Ascertained | 38 + 3 (Registration fee) = 41 | - | H |
| Mall MA | Not Ascertained | 100 | - | Q |
| Mall NWB | Not Ascertained | 30 | - | H |
| Mall NWC | Not Ascertained | 38 + 3 (Registration fee) = 41 | - | H |
| Mall MB | Not Ascertained | Not Ascertained | - | R |
| Mall MC | Not Ascertained | Not Ascertained | - | S |

5.4.1.2 Municipalities

In WG Street, the car guard that was found on the street was operating the parking marshal machine and said she was called a *car guard* previously until the appointment of the new company called Company G, which came with the change of the designation to parking marshal. The lady said that she was making R9 000 per month for a company, but that she was earning R1 700 as a basic salary. At the Shopping Centre LC, a car guard working for a municipality called LS Municipality, makes a minimum of R100 per day. The municipality claims R70 of that money, leaving her with R30.

The parking marshals that were found in LJ Street said that they were working for LM Municipality. They earn R150 per day and they were paid on commission.

The other case was found in LN Municipality where parking marshals were making about R300 per day and received a fixed salary of R2 800 per month. The guard said that he collects R5 from motorists for less than an hour's parking.

5.4.1.3 Centre management

A security officer who was working in one of these malls pointed out that Mall LB, Mall LO, Mall LP were all owned by Company T. Research revealed that, when Company T appoints car guards, they are expected to pay a *bay fee* to either centre management or the subcontracted security company.

The table below set out examples of bay fees paid by car guards to centre management of shopping centres.

| Shopping Mall | No of guards | Bay fee (R) | | Company |
|--------------------|-----------------|-------------|------------|--------------------------------|
| | | Daily (R) | Weekly (R) | |
| Mall LB | 8 | 20 | - | Company F |
| Mall LD | Not Ascertained | 15 | - | Centre Management |
| Mall LE | Not Ascertained | 50 | - | Centre management |
| Mall KJ | Not Ascertained | 15 | - | Security manager of the centre |
| Shopping centre KA | Not Ascertained | - | R180 | Centre manager |
| Mall WD | Not Ascertained | 35 | - | Centre management |
| Mall WF | 60 | 35 | - | Company U |

5.4.1.4 Self-employed

At Mall EC, car guards (6) were self-employed and were not paying PSiRA. They justified not registering with PSiRA by explaining that they rely on tips, which were not enough to pay for PSiRA registration. These car guards were making approximately R20 per day. At Shopping Centre FF, it was discovered that car guards (4) were not linked to any company and they were not aware of PSiRA. Their daily earnings totaled around R150. The other case of not paying a *bay fee* was discovered at Mall LA, where the guard said that he earns between R500 and R1000 per day. At Mall LI, the guard was earning R150 per day. At Shopping Centre LG, the guard was earning a minimum of R200 per day.

In Northern KwaZulu-Natal, car guards were not paying daily *bay fees*. The car guards decided to tell those who wanted to collect money that they do not get enough money and they cannot share the little tips they receive with the security companies – or any person who wants to be their boss.

5.4.1.5 Individuals who collect bay fee and without a registered company

The car guards (30) that were operating at Mall KG were paying a bay fee to a person who comes and collects money. However, the daily *bay fee* was not the same for all car guards working within the parking lots of the mall. Again, the money they pay varies with the location.

In the case of Mall LR, car guards reported that a person by the name of X collects the bay fees everyday in the afternoon. At Mall GX, Shopping Centre GJ and other malls around Gauteng, it was discovered that car guards were working for an individual by the name of Y, who was from DRC. Car guards were paying a daily bay fee to him.

The study below outlines the collection of bay fees by the above-mentioned individuals.

| Shopping Mall | No of guards | Bay fee (R) | | Company |
|--------------------|-----------------|-----------------|------------|---|
| | | Daily (R) | Weekly (R) | |
| Mall KG | 30 | 15 | - | The participants did not know his name. |
| Mall WB | | 25 | - | Company V |
| Shopping Centre WC | 10 | 10 | - | W |
| Mall GX | Not Ascertained | Not Ascertained | - | Y |
| Shopping centre GT | 25 | 44 | - | Y |
| Mall LR | Not Ascertained | 20 | - | X |
| Mall GG | Not Ascertained | 30 | - | Z |

5.4.1.6 Registered and linked to the company

The research revealed that there were some security companies who were indeed complying with the law. The guards who were working for those companies were not expected to pay a daily *bay fee* or take tips due to the fact that they were receiving a basic salary. The guards were working for Company B, Company D and Company E. The guards from these registered security companies were registered and also linked to the security companies, as per in the PSiRA database, in accordance with the legal requirements.

It was found that not all car guards pay a *bay fee* to security companies. For instance, at Mall KQ it was discovered that while the car guards were registered and linked to the security company, they also accepted donations which they never declared to their employer. This is because it was against the company policy to accept any donations from the car owners.

In the case of Mall KR, however, where Company W is operating, the car guards were keeping all donations received from the car owners and the company only paid them an amount of R500 per month through cellphone banking. In this case, no salary advice slip was given. This was a clearly an irregular payment system. The research found that car guards would collect an amount of around R2 000 per month from tips, thus earning a total monthly 'salary' of around R2 500.

5.5 Fluidity of the Car Guarding Sector

The research found that car guards who are not linked to the company they are working for, and whose statuses on the PSiRA database shows that they are *inactive/unemployed*, will be quick to say that they had been recently employed by the company. This was a strategy to justify their status on the database. This was the case at the Mall KS where Company X is operating. It was found that while the car guards were working for Company X, their pay slip reflected that they were in fact employed by Company Y.

5.6 Harassment of Car Guards

The challenges that were observed and reported by car guards were predominantly related to the aggressive treatment they are subjected to by motorists. Most of these incidents occurred when they were trying to direct a motorist out of the parking lot, without noticing that another car was approaching, which led to a collision. The other challenge that was reported was that of hooligans who wanted to commit crime in the parking lots.

In the study conducted by Foster (2015), it was reported that some car guards are being stabbed or shot in the parking lots. The newspaper article by ANA (2018) featured an incident that occurred in Westbury, where two men were arrested for shooting a car guard – tangible proof that car guards' lives are in danger in parking lots. However, the research findings presented none of such allegations from car guards, instead a car guard that was working at Shopping Centre FA stated they do not stop criminals but they serve as witnesses when a criminal case is opened.

5.7 Unfavourable Working Conditions

5.7.1 Effects of different weather conditions

The research confirmed the observations of Steyn *et al* (2015) that car guards were working in harsh conditions which include being on their feet in cold winter and hot summer days. In most places where car guards were willing to participate in the study, no one ever demanded rooms to stay when it is cold or hot because the nature of the work required them to be on their feet and out there in the parking lots. What was observed in other malls like Mall EC was that car guards would sit when the parking lot was not busy.

Car guards are exposed to drastically different weather conditions. Car guards at Mall FB were interviewed early in a cold morning. At Mall WD, car guards were observed directing motorists out of the parking lots in pouring rain. At Mall EC, it was observed that car guards were exposed to sun for extended periods of time. They complained about not having umbrellas to protect themselves from the intense heat of the sun. Foster (2015) pointed out that car guards suffer from body illnesses as a result of sun exposure. One of the car guards at Mall GI suffers nose bleeds on hot sunny days. When he is done assisting a motorist, he seeks shade under a tree to protect himself from the sun.

5.7.2 Long shifts

Blaauw and Bothma (2003) noted that car guards work for long hours without any shifts. There were those who work in the public parking lots during office hours (08h00 until 17h00). Majority of car guards that were interviewed reported that if the shopping centre opens until late, they have shifts (day and night). For example: a guard from Mall GR said they knock off at 15H00 and the second shift runs until the mall closes. It was observed that in those long hours, car guards were always on their feet directing cars in order to

get tips. However, car guards that were operating in Mall EC and Mall EA had plastic chairs.

5.7.3 Insurance challenges

According to the work done by Foster (2015) it was observed that car guards do not have personal insurance, which puts them at risk in the event of an injury at work, like being stabbed or shot by criminals when committing crime(s) in parking lots. For instance, ANA (2018) reported an incident that occurred in Westbury where two men were arrested for shooting a car guard – proof that car guards' lives are put at great risk.

Research revealed that the majority of car guards collect tips in order to buy food and other needs. The amount of tips are not sufficient to cover the costs of funeral cover. Most car guards were found not to have Unemployment Insurance (UIF). Most car guards were also not aware of the Compensation for Occupational Injuries and Diseases Act 130 of 1993, the Act that prescribes how to compensate workers when they get injured or acquire disease at work. Car guards stood in the parking lots in different weather conditions.

5.8 Gender and Racial Dynamics

The majority of car guards at Shopping centre FC were whites. One of the guards explained that it was because the centre housed agricultural shops that attract farmers. The perception is that farmers do not feel comfortable with black car guards. Therefore, their employer removed black car guards and hired white car guards in those parking lots.

In some malls like Mall EA and Mall EC the case was different. It was observed that there was gender dominance, which in this case were female. It was stated that male car guards were more often than not prone to committing crime within the parking lots. In support of the previous statement on News24 there was a video of a car guard assisting criminals to steal in the parking lots, the title of the video is "*Car guard appears to assist in theft from motor vehicle*" the web address of the video can be found in the list of references.

Female car guards were asked how they protect themselves and the cars they were guarding. The response was that *we harass the criminals when they are trying to steal*. They shout and blow whistles when any criminal activity occurs. If they need back up, they call mall security officers to assist them. A car guard from Mall FA pointed out that most

criminal activities within parking lots occur when they take toilet breaks, presenting hooligans with an opportunity to commit crime.

5.9 The Involvement of Foreign Nationals and/or Undocumented Migrants

The study found that the use of foreign nationals and/or undocumented migrants was pervasive in the car guarding sector.

5.9.1 Congolese car guards

At the Mall GE, the car guards were from The Democratic Republic of Congo and were paying a daily *bay fee* of, R35 to the supervisor who was working for Company Z. At the Mall KT, majority of car guards were found to be of Congolese origin. The same was true at the Shopping Centre KC1. In both shopping complexes, car guards were paying a bay fee ranging between R35 to R100 per day to a company known as Company A1. In these shopping complexes, only the supervisors knew about the PSiRA requirements. Of interest was that in both shopping complexes, the supervisors stated that they were registered with the Security Officers Board, which was the PSiRA's predecessor until 2002. After such registration, they never renewed their certificates.

At Area KU, unregistered car guards of Congolese origin (with reflective vests marked *Parking Monitor*) were paying a daily *bay fee* of R15 to the Company B1. In some parts of Area KV, especially in the residential areas, these *Parking Monitors* reported that they were paid an amount of R500 every month by the Company C1. Upon further enquiry, it was found that the Company C1 provider was Company D1. It was also established that there were no *bay fees* required, especially where the parking lots were not busy. Of interest was the fact that throughout Area KV, the car guards did not know about PSiRA and the associated requirements.

It was noted that majority of car guards were from Democratic Republic of Congo (DRC). The *bay fee* that car guards were paying varied from place to place. A South African car guard that was working at Mall GN reported that, if you are not Congolese, you are ill-treated until you leave Mall GX. The Congolese were dominating car guarding at Mall GN and the *bay fees* were being paid to a person by the name of Y. At Mall GH, car guards were from DRC and they were paying a *bay fee* of R30 to a person by the name of V. The supervisor explained that the money they collect was for buying brooms (to clean the parking lots) and uniforms.

In Cape Town, the majority of car guards were found to be from the DRC. They were also expected to pay *bay fees*. The findings by Foster (2015) and Steyn *et al* (2015) pointed out that some car guards did not meet the requirements to register with PSiRA; most lacked formal security training. These factors result in the exploitation of car guards (Foster, 2015 and Steyn *et al*, 2015). Research confirmed that foreign nationals and/or undocumented migrants are being exploited because they would otherwise not be able to secure employment in the job market.

5.9.2 Zimbabwean car guards

The majority of car guards at the shopping centres listed in the table that follows were of Zimbabwean origin. They were also expected to pay a *bay fee*. At Shopping Centre GD their case was different; the car guards were from Zimbabwe, but were not expected to pay a *bay fee*. This came after centre management decided that the centre needed to start managing the car guards proactively.

| Shopping Mall | No of guards | Bay fee (R) | | Company |
|--------------------|-----------------|-----------------|------------|--------------|
| | | Daily (R) | Weekly (R) | |
| Shopping Centre GO | 5 | 50 | - | G |
| Mall GR | Not Ascertained | 40 | - | F1 |
| Mall GL | Not Ascertained | Not Ascertained | - | Individual Y |
| Shopping Centre GJ | 25 | 44 | - | Individual Y |
| Shopping Centre GY | Not Ascertained | 29 | - | H |
| Shopping Centre GM | 6 | 20 | - | H |
| Shopping centre GB | Not Ascertained | 63 | - | D1 |
| Mall GF | 16 | 20 | - | D1 |
| Mall KW | Not Ascertained | 25 | - | Z |

5.9.3 Malawian car guards

At Shopping Centre GQ car guards were found to be mostly from Malawi, and were paying a *bay fee* ranging from R23 to R45 to Company Z. At the Shopping Centre KX, the car guards were nationals of Malawi.

5.9.4 Burundian car guards

At the Shopping Centre KY, the majority of car guards were Burundi nationals. These car guards were not aware of PSiRA or any associated requirements and regulations regarding the provision of security services. They said that they were paying a daily *bay fee* of R30 to Company W. At Shopping Centre KZ, the majority of car guards (all unregistered) were from Burundi (and Congo) and were paying a daily *bay fee* of R45 to Company Z.

At the Shopping Centre KX, the car guards were nationals of Burundi. It was found that the car guards were charged an initiation fee by Company O – R150

for a gold shirt and R400 for a shirt and hat. At Mall GF, the car guard that was interviewed said he was from Burundi and he confirmed that there were car guards from several African countries operating in the parking lots. At Mall GP, the car guards were from Burundi and they said they pay a *bay fee* of R30 to the supervisor who was contracted by the mall to collect money from car guards.

5.10 Partnerships between Security Companies

5.10.1 Company B and Company H

The research discovered that in most places where there was security Company B providing general guarding services in the mall, Company H was in charge of the car guarding services in the parking lots. It was also reported that the owner of Security Company H was the spouse of the owner of Company B.

At Mall NWA, the majority of unregistered car guards of Zimbabwean origin were paying a *bay fee* ranging from R30 to R100, (depending on location) to a PSiRA registered security guard (Supervisor) not linked to Company H (according to PSiRA database) but working for the company. The *bay fee* was collected by the supervisor and thereafter deposited into a Company H (or linked) account. The service provider of the general security at the mall was Company B. The study found that supervisors were not paid for collecting bay fees from car guards.

At Mall KA1, Security Company B was providing general security to the mall while Company H was in charge of car guarding in the parking lots. Of interest was the fact that about 12 unregistered car guards from the DRC were paying a bay fee of R33 to company H. At Shopping Centre FG, the same arrangement was observed; the car guards of South African origin being unregistered with PSiRA.

At Shopping Centre GY, the car guards that were working in that mall reported that they pay a *bay fee* to the supervisor. The supervisor who was working for Company B stated that the guards were working for Company H and the money was deposited to Company H's account. At Shopping Centre GM, Company B was in charge of the mall security, while Company H was providing car guarding services in the parking lots, and the guards were paying a *bay fee* of R20 to Company's account. At Mall WE, car guards were working for Company H and were paying R33 per day as their *bay fee*. Their bibs were marked *Car Attendants*. The security company that was found working inside the mall was Company B.

5.10.2 Company B and Company G1

In Mall GL, the car guard interviewed reported that he was working for Company G1 and while the interview was still in progress the security manager of the shopping mall who was working for Company B interrupted the interview by not wanting car guards to respond to the questions of PSiRA. The security manager was then asked whether he was aware that car guards need to be registered because they are providing security service. He confirmed that he was aware. He further pointed out that there is a relationship between Company B and Company G1 that provides car guarding in the parking lots. The guards that were working in these malls (GK and GL) said that they were paying a bay fee ranging from R34 to R50.

5.10.3 Company J and Company K

The study discovered that, where Security Company J was in charge of the security in the shopping centre, Company K (which is not PSiRA registered) was in charge of the car guarding in the parking lots. This partnership was mostly found in the Free State province. It would seem that Company K is in violation of section 38(f) of the PSiR Act, which states that *any person who holds himself or herself out as registered security service provider whilst he or she is not registered or such registration is suspended; is liable to a fine or to imprisonment for a period not exceeding 24 months, or both a fine and such imprisonment.*

5.11 Opportunities

The car guarding sector creates a source of income for most indigent South Africans (and documented migrants) and serves as a deterrence to crime in the parking lots. Car guards across the board said that they looked forward to seeing the car guarding sector being professionalised. This was because they view it as the only way for them to generate income. It could be argued that, in the absence of other opportunities, some people do enjoy working as car guards in order to sustain their livelihoods, righty or wrongly.

Steyn *et al* (2015) assert that formalising car guarding in South Africa can both create opportunities for those that are unemployed and have a positive spin off in reducing vehicle related crimes within the parking lots. Research revealed that there were many South Africans that were in the sector and that would otherwise have been unemployed. It would make a great impact when all these car guards could be registered and formally employed by the companies that they were working for. This could contribute toward reducing unemployment in the country. From the research conducted, it became clear that the sector could create opportunities for security officers who are registered with PSiRA but do not currently have jobs.

The car guards from Mall GN and Mall KP called for the formalisation of car guarding, because they have security grades but are unable to secure formal employment. A car guard that was operating at Mall GN pointed that it was even worse in the car guarding sector, because unregistered foreign nationals provide cheap labour and make it hard to complain because of the risk of being dismissed. This study therefore adopts the assertions made by Steyn *et al* (2015), that formalising and regulating the car guarding

sector has great potential to create job opportunities for many unemployed South Africans and has a positive spin-off in reducing vehicle related crimes in the parking lots.

5.12 The challenges and role played by PSiRA in regulating car guarding

The PSiRA law enforcement unit confirmed that most car guards were non-compliant, following the individual inspections that were conducted by the Authority. The findings were that PSiRA has had some success in joint operation with South African Police Service (SAPS) to enforce the PSiR Act. However, in some areas, the change of the designation *car guarding* created a difficult space for their operations to be successful. One successful operation was observed at Mall GZ where police arrested unregistered foreign nationals working as car guards.

In some cases, the stakeholders (SAPS and Courts of Law) that PSiRA works with were not cooperating effectively. An unsuccessful operation took place in Midrand, for instance. In some places, PSiRA had to cancel the operations because the police had other commitments to attend to. The cancellation of some of the operations took place on the very same day of the operations. This has a negative impact on the finances of the Authority. SAPS in some cases delay the process of PSiRA to make arrests. PSiRA stated that, in some police stations, they were told not to raise the issue of car guards because car guards assist SAPS in fighting crime that occur within the streets.

The Authority confirmed that it has issued the 14 days' consumer notice as an awareness notice to the shopping malls found with unregistered car guards. The notice called for property owners to remove unregistered car guards within their parking lots. Failure to do so would result in criminal proceedings being launched against the centre. However, PSiRA has not been able to follow up on whether the transgressors did indeed remove the guards or not. In some places, it was discovered that car guards returned to the mall to work and some were complying after the notice had been issued. The inspectors argued that car guards were charged in terms of First Information of Crime (FIC). When presented in court, the court would just issue a fine as a warning to car guards not to violate the law again. FICs are not considered serious crimes.

The law enforcement unit also pointed out that they only open criminal cases against security companies who were implicated in the use of unregistered car guards (and not the guards themselves). The problem that courts note during prosecution is that there is often a lack of evidence. However, PSiRA still charges these companies for compliance violations. PSiRA pointed that the history of non-compliance within the sector was as a result of the amendment of the sectoral determination 6. Research revealed that service providers and property owners did not want to hire car guards because of the issue of salaries that was specified in the amendments. The change of the designation *car guard* was prompted by the changes that were made in the sectoral determination.

6.

RECOMMENDATIONS

The research conducted has provided information on how car guards in South Africa operate. The Authority as mandated by the PSiR Act, conducted this study to understand how the car guarding sector can be regulated. The section outlines the recommendations based on the findings on how to advance the sector and ensure compliance.

6.1 Registration requirement

It is recommended that car guards be registered with PSiRA to ensure compliance and to reduce incidents where car guards perpetrate crime without being held to account. The Authority must ensure that car guards are subjected to screening in order to prevent people from entering the sector with the intention of perpetuating criminal behavior in the parking lots. The Authority should take action against those who are found violating the law (this includes undocumented migrants, outstanding renewals, and unregistered car guards).

Convicts and ex-convicts should not be allowed to operate in the sector unless their criminal records have been cleared and a clearance certificate can be produced as proof. These registration requirements should also apply to members found working for a security company – and its management. Any security company that is found operating with security guards that are not registered must be held accountable.

The Authority must ensure that the registration process includes binding terms and conditions, that any security company that is registering to provide security services may not use the same company in other business activities that are not security related or that create the impression that they are providing security services. The Authority should put in place mechanisms aimed at ensuring that property owners and security companies responsible for car guards are aware of the law. The property owners and security companies must keep records and documents of car guards in their security offices for inspection purposes. PSiRA should ensure that any security equipment used for safety purposes within parking lots is registered as such and is in accordance with the law. PSiRA should consider the implementation of a re-registration process for the car guarding sector. This would ensure that service providers are aware and properly screened before re-certification.

6.2 Compliance Enforcement

Any property owner found providing space for car guards to operate within their parking lots should be considered as a consumer of security service. The Authority should ensure that they are held accountable like any other consumers that are found with unregistered security guards. Any car guard that admits that he or she is providing car guarding at first and changes his or her story as the investigation proceeds should be charged for making a false statement to an inspector.

The property owners are aware that in order to give a contract to a security company, the latter must be registered with PSiRA and the guards must also be registered. Any property owner who claims not to be aware that car guards must be registered should be charged because he or she is providing false information. Moreover, if they permit foreign nationals (without South African permanent residence) to perform such duties without having screened them, motorists are at risk of being victims of vehicle related crimes. If unregistered car guards are arrested on a particular property more than once, PSiRA should also open a criminal case against the property owner for violating section 38(3)(g) of the PSiR Act by allowing unregistered car guards onto their premises despite having been served with a consumer notice.

PSiRA should charge the shopping centres that allow unregistered companies or individual people to operate within their parking lots in terms of section 38(3)(f) of the PSiR Act. The Authority should give

responsibility to property owners to ensure that car guards are complying, should car guards found not complying, the property owner must be held liable. The Authority should consider charging property owners who do not disclose to customers that the people who are attending the parking lots (for whatever reason) are in fact not car guards.

6.3 Partnership with different stakeholders

Research conducted suggests that the Authority should strengthen partnership with various departments of the South African Government. The subheadings that follow name departments that can contribute to the advancement of car guarding sector.

6.3.1 Department of Labour

PSiRA should partner with the Department of Labour (DoL) in order to ensure that car guards are PSiRA registered and entitled to enjoy every right as employees. Any exploitation issues identified by the Authority must be reported to the DoL. The Authority should inform DoL about the unfavourable labour related conditions that are experienced by car guards. The DoL must be informed about employment equity issues where there are racial and gender discriminations. The DoL should ensure that car guards contribute to the Unemployment Insurance Fund (UIF) when they are working. The DoL should ensure that car guards are protected by the Compensation for Occupational Injuries and Disease Act 130 of 1993.

6.3.2 Government's law enforcement agencies

The Authority should engage with the National Prosecuting Authority (NPA) and SAPS in ensuring that criminal cases opened by PSiRA are investigated and lead to prosecution. The Authority should open a criminal case against any member of SAPS who is seen protecting a person (car guard) who is violating the law to the Police station nearest to the one that refused to assist. It must ensure that the case get transferred to the Independent Police Investigative Directorate (IPID). When it comes to enforcement operations, PSiRA should communicate with the SAPS that the inspectors of the Authority required reasonable notice if there are any planned changes to an operation. SAPS should be held liable and compensate wasteful expenditure of the Authority in cases where resources are wasted as a result of poor communication on its part.

6.3.3 Department of Home Affairs

PSiRA should strengthen its relationship with the Department of Home Affairs. The Authority should request members of the department (particularly the Immigration Unit) to join PSiRA during operations in order to assist in the determination of the status of foreign nationals providing car guarding services.

6.4 Establishment of a car guarding sub-unit

The Authority must ensure that its clients are well serviced and that the country remains safe. As such, PSiRA should consider the establishment of a sub-unit within the law enforcement unit that will deal exclusively with car guarding. The car guarding sector requires an inspector that understands the dynamics of the sector. The sub-unit should be housed in every regional office of PSiRA (including head office). The sub-unit could be linked with a unit that deals with shopping malls or retails security guards compliance issues, and should follow up on cases where consumer notices have been issued to property owners.

6.5 Risks awareness campaigns

Unregistered car guards present a significant risk to motorists. PSiRA should have awareness campaigns to inform motorists not to give tips to unregistered car guards. If the car guards in question are registered, they could easily be identified, should anything happen. PSiRA should have workshops to inform companies that are registered to provide security services, but are found not to be offering such services, to disclose their business activities. This would enable PSiRA to confirm whether it is a security service or not. PSiRA should organise workshops aimed at engaging car guards on why they should register as security guards.

The Authority must ensure that property owners that refused to change the designation from *trolley assistants*, *car park assistants*, *car park attendants* and *parking marshals* to *car guarding* inform motorists that there are no car guards on their premises. Failure to do so will imply that they are providing car guarding and they will be charged for violations of the PSiR Act.

6.6 Biometric system

The Authority should consider a biometric system in order to identify recidivists. The biometric system will need to capture the fingerprints of all people who were arrested in order to identify them when they are rearrested. SAPS will have their set of fingerprints with them and the Authority should have theirs in the database created by the Information Technology unit for cross referencing purposes. Inspectors would carry a portable biometric machine that will be linked with the PSiRA system.

6.7 Uniform and Insignia requirement

The Authority should ensure that car guards wear proper uniforms supplied by employers in order to make car guards easy to identify. PSiRA must ensure that car guards are not buying themselves uniforms (as prescribed by PSiR Act). Employers found in violation of this Act should be charged. The Authority should consider prescribing reflective vests as a part of the uniform for car guards. These vests should feature nametags, insignia (showing ranks) and the company name. Anyone found not registered within the parking lots standing and directing cars while wearing a reflective vest will thus be violating the law. He or she should be arrested for such conduct. The car guarding sector has a clear need for the establishment of ranks in order to develop proper insignia (the employer must be responsible for the provision of such insignia). Ranks should be assigned based on an individual's security grades and experience gained in the industry.

6.8 Engagement with the Municipalities

The Bylaws of some municipalities define *car guards* as *parking marshals* or *parking meter assistants*. The Authority should consider the fact that these people are, in fact, providing car guarding services. The Authority should outline to municipalities the duties of car guards and inform them that *car guards/parking marshals* should be registered with PSiRA. If a municipality refuses to comply, it should be charged for allowing a person to provide a security service without being registered.

7. CONCLUSION

As vehicle related crime increases within parking lots, the demand for car guards to deter criminal activities within the parking lots increased. This research report has shown that improving regulation of this sector can create a safe environment in the parking lots. Some car guards are involved in criminal activities. Regulating the sector will enable transgressors to be held accountable for their misdeeds. Research conducted shed light on the challenges faced by PSiRA in regulating car guards (noting its efforts to enforce compliance). Although the Authority is playing an active role in enforcing compliance, the change of the designation *car guards* by companies intentionally evading the law makes it more difficult for PSiRA to act.

This study found that the sector is exploitative. The majority of car guards are self-employed, but they are expected to pay a daily *bay fee* either to the outsourced security company, centre management or an individual who claims reserve and assign *spots*. There are different motives mentioned in the study as to why the majority of car guards enter into the

sector. The crisis of unemployment and the need to provide for their families are the top motivating factors for entering the car guarding sector. The majority of South African car guards interviewed in the study were found to be registered with PSiRA while others had their renewals outstanding. The study also unearthed that some shopping centres deployed registered security guards in the parking lots and that these guards reported that they earn basic salaries.

The research highlighted that established and PSiRA-registered security companies are involved in the car guarding sector. The Company B and Company H phenomenon was noted in nearly all provinces in the country. If the mall has car guards and the security company in charge of the mall is Company B, the likelihood of finding Company H car guards was high. The racial and gender domination was highlighted in the study and reasons were provided in the research findings but the main reason was the lack of trust. The study uncovered unfavourable working conditions that car guards are subjected to. Recommendations to better regulate the car-guarding sector were also mentioned in this report. If PSiRA could implement these recommendations, the so-called *bay fee pyramid scheme* would collapse.

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