**NATIONAL ASSEMBLY**

**FOR WRITTEN REPLY**

**QUESTION 2147**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 3 9EPTEMBER 2021 (lNTERNAL QUESTION PAPER NO 21-2021)**

**2147. Mr C Brink (DA) to ask the Minister of Police:**

(1) With reference to the proposed establishment of a metropolitan police department by the Mangaung Metropolitan Municipality as gazetted in March 2021 and the progress report to the municipal council on the progress of establishing such a department dated 2 June 2021, (a) on the basis of which legal framework and/or legislative provisions is it /JO9Gible for a person who has a criminal record to be appointed as a learner constable or as any other staff member of a metropolitan police department, and then to be assisted by the municipality with the expungament of such criminal record after the person was appointed and (b) what action will he and/or the National Commissioner of Police take to prevent the Mangaung Metropolitan Municipality from appointing persons who have criminal record9;

(2). whether he and/or the National Commissioner of Police have a record of learner constables or other staff members of metropolitan police departments who have already been appointed and had their criminal records expunged, if not. what is the position in this regard; if so, what(a) is the nature of each of the expunged criminal records and (b) are the further relevant details in this regard?

NW2437E

**REPLY:**

(1}(a) Regulation 11(1) of the Regulations for Municipal Police Services, 1999, sets out the requirements for the appointment as a member of a municipal police service. Regulation 11(1)(g) Includes the requirement that the applicant may not have a criminal record (excluding previous convictions relating to political activities in the previous dispensation).

Furthermore, Regulation 11(2) provides that the National Commissioner may, subject to certain conditions. waive some of the requirements of appointment. including the requirement that the applicant may not have a criminal record, In the interest of the effective functioning of a municipal

The expungement of a criminal record is dealt with, In terms of the Criminal Procedure Act, 1977 (Act No. 51 of 1977). An application for the expungernent is considered by the Department of Justice and Constitutional Development. Once a criminal record is expungad, the criminal conviction of a person is permanently deleted (in law the parson is deemed not to have been convicted of the offence concerned). If a criminal record has been expunged, there is no need for the National Commissioner to consider the waiving of the requirement set out in Regulation 11(1){g).

(b) Section 64C(2)(b) of the South African Police Service (CAPS) Act, 1885 (Act No. 68 of 19B5) provides that an executive head of a municipal police service is, inter alia, responsible for the recruitment and appointment of members of the municipal police service. A municipal police service functions within a municipality and accordingly, falls within the sphere of responsibility of local government. Neither the Minister of Police nor the National Commissioner has the power to interfere In the appointment process of any employee of a municipality.

(2)(a)(b) No. The explanation is provided above.

Reply to question 2147 recommended/

**NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE
KJ SITOLE (SOEG)
Date**: 2021-08-23

Reply to question 2147 approved

**MINISTER OF POLICE
GENERAL BH CELE, MP
DATE**: 29-09-2021