

## NATIONAL ASSEMBLY

**FOR WITTEN REPLY****QUESTION 395**

**DATE OF PUBLICATION IN INTERNAL QUESTION PAPER: 24 FEBRUARY 2023**  
**(INTERNAL QUESTION PAPER NO 4-2023)**

**395. Mr A G Whitfield (DA) to ask the Minister of Police: [41]**

**[Question submitted for oral reply now placed for written reply because it is in excess of quota (Rule 137(8))]**

- (1) With reference to the assertion by the Minister in The Presidency, Mr M Gungubele, during the Debate on the President's State of the Nation Address on 14 February 2023, that certain police stations in the Western Cape were in a dire state, what steps will he take to ensure that the police stations in crime-ridden townships, such as Gugulethu, Khayelitsha and Philippi East are fully functional so that the residents are better protected?
- (2) whether, in light of the poor state of the specified and other police stations in the Western Cape, coupled with the SA Police Service's perceived inability to ensure that all police stations are fully functional, he will reconsider assigning the functions of policing to the City of Cape Town and/or Western Cape Government in line with section 99 of the Constitution of the Republic of South Africa, 1996; if not, what is the position in this regard; if so, what are the relevant details?

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**REPLY:**

- (1) Police stations in the Western Cape Province are closely monitored to ensure adequate operational staffing levels and effective policing. Notwithstanding the recent challenges of restrictions on entry-level training, as well as an increased attrition rate, without replacement, the South African Police Service (SAPS) in the Western Cape Province has applied innovative measures aimed at prioritised stations, which are managed through an Integrated Resource Management Strategy.

The following measures were actioned to increase capacity at priority police stations:

- Surveys of interest to capacitate priority police stations.
- Transfers to priority stations.

- Placement of new constables from the entry-level intake of 2022/23.
- Allocation of members from the re-enlistment process, in 2022/23.
- Promotion of SAPS members and Public Service Act employees in December 2022.
- Police stations are prioritised for allocations from the National Project 10 000 (i.e. new trainees). These new constables are currently undergoing workplace exposure training.

In terms of physical resources, priority police stations are continually resourced and day-to-day maintenance is conducted as necessitated.

- (2) The assignment of the functions of policing by the SAPS to the City of Cape Town or Western Cape Government, in terms of section 99 of the Constitution of the Republic of South Africa, 1996, will be invalid, as explained below.

Section 99(b) of the Constitution of the Republic of South Africa requires that the assignment by a Cabinet Member of any power or function to be exercised or performed, in terms of an Act of Parliament, must be consistent with the Act of Parliament, in terms of which the power or function is exercised or performed.

Section 199(1) of the Constitution provides that the security services of the Republic consist of a single police service. Furthermore, in terms of section 205(1) of the Constitution, the national police service must be structured to function in the national, provincial and, where appropriate, local spheres of government.

The National Commissioner is, in terms of section 207, responsible to control and manage the police service, in accordance with the national policing policy and directions of the Minister of Police. Section 207(4) further provides that a provincial commissioner is responsible for policing in his or her province as prescribed by national legislation and subject to the power of the National Commissioner, to exercise control over and manage the police service.

Section 2 of the Constitution provides that the Constitution is the supreme law of the Republic and that any law or conduct inconsistent with it, is invalid. The Minister of Police does not have policing powers and, therefore, cannot assign or transfer the responsibility of the National Commissioner to control and manage the (national and single) police service to a member of the provincial Executive Council or to a Municipal Council.

Such transfer will be inconsistent with the provisions as contained in Chapter 11 of the Constitution, and accordingly, invalid.

Any proposed change in the existing legal position will require amendment to the relevant provisions as contained in Chapter 11 of the Constitution.

Reply to question 395 recommended/~~not recommended~~

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 ACTING NATIONAL COMMISSIONER: SOUTH AFRICAN POLICE SERVICE  
 TC MOSIKILI

LIEUTENANT GENERAL

Date: 2023/03/03

Reply to question 395 approved/~~not approved~~

  
 MINISTER OF POLICE  
 GENERAL BH CELE, MP

Date: 08/08/2023