



**CITY OF CAPE TOWN  
ISIXEKO SASEKAPA  
STAD KAAPSTAD**

**OFFICE OF THE EXECUTIVE MAYOR**

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24 April 2024

**To:** The Honourable Minister Bheki Cele  
Minister of Police  
Per email: [GaehlerSMK@saps.gov.za](mailto:GaehlerSMK@saps.gov.za)  
CC: [PhokaneN@saps.gov.za](mailto:PhokaneN@saps.gov.za)

**And to:**

The Honourable Minister Ronald Lamola  
The Minister of Justice and Correctional Services  
Per email: [Ministry@justice.gov.za](mailto:Ministry@justice.gov.za)  
CC: [ZaneNdlovu@justice.gov.za](mailto:ZaneNdlovu@justice.gov.za)  
[Amahlalela@justice.gov.za](mailto:Amahlalela@justice.gov.za)  
[BSarela@justice.gov.za](mailto:BSarela@justice.gov.za)

Dear Honourable Ministers Cele and Lamola,

**RE: EXPANSION OF SPECIFIED POLICING POWERS FOR CITY OF CAPE TOWN**

Further to my correspondence to you of 18 August 2022, 1 December 2022, 8 February 2023 and 8 February 2024 in which I have repeatedly requested your approval and actioning of a means whereby the combatting of crime, in both its prevention and investigation, can be strengthened in Cape Town by the decentralisation and devolution of specified policing functions to the City of Cape Town, I have not yet had any formal response thereto.

This lack of response notwithstanding, there has been repeated comments attributed to Minister Cele in the media over the past 12 months indicating a disinclination to even meaningfully consider our request, and that the devolution that we seek will require constitutional amendment.

This is incorrect, and misunderstands what specific intervention we are currently seeking from your offices.

This letter now sets out again exactly what the City is seeking from you and why, to ensure there is no further misunderstandings in this regard. The very specific legislative and policy changes that the City currently seeks do not require constitutional amendment nor indeed detract from SAPS' current mandate.

Indeed our request will serve only to supplement and bolster the crime prevention capacity of SAPS as currently managed and controlled by our National Government.

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**Making progress possible. Together.**

I thus again hereby request both your agreement and support for the following actions to be initiated, as per my prior correspondence, in order to enhance and improve the delivery of policing services in South Africa by both SAPS and the City's officials and in so doing materially contribute to the reduction of crime:

**1. THE EXTENSION OF THE CITY'S CURRENT POLICING POWERS, EITHER BY WAY OF AN AMENDMENT TO SECTION 64 E (C) OF THE SAPS ACT SO AS TO EXTEND OUR LAW ENFORCEMENT OFFICERS AND METRO POLICE OFFICERS' POWERS BEYOND CRIME PREVENTION TO INCLUDE THE POWER TO CONDUCT FULL CRIMINAL INVESTIGATIONS.**

Whilst the current powers in this Act enable our Officers to engage in (or be responsible for) all types of crime prevention, which includes:

- Primary prevention with potential perpetrators and victims;
- Secondary prevention with those who are already victims or perpetrators; and
- Tertiary prevention with the public;

The SAPS Act does not expressly empower our Officers to conduct criminal investigations.

I am advised that whilst there is still legal uncertainty as to the ambit of the definition of "criminal investigation" per se, certainty in this regard, so as to expressly empower our Officers to collect information (or evidence) about a crime in order to: (1) determine if a crime has been committed; (2) identify the perpetrator; (3) apprehend the perpetrator; and (4) provide evidence to support a conviction in court, will exponentially increase the crime prevention capacity in the metro as a whole, much of which is being hamstrung by crippling capacity constraints in the SAPS and the broader criminal justice system. This results in evidence gathered by the City being handed to SAPS to take further to prosecution with the NPA. In general, the City collates data and statistics on a daily basis to ensure all our law enforcement operations are data-led. This is best practice to enable the efficient use of limited resources, but the exclusion from the mandate to also explicitly **investigate** crime, as currently contained in the SAPS Act, causes unnecessary exclusions of the City's Officers from certain areas of crime investigation, which they are well suited and capacitated to do.

Given that the City of Cape Town's Officers currently have an enhanced capacity to conduct successful criminal investigations by virtue of, inter alia,

- Their strategic deployment policies;
- Our Innovative technological resources; and
- Our fiscal viability and increased personnel;

To refuse to agree to the City's Metro Police and Law Enforcement being empowered to perform this function, whilst SAPS are manifestly often simply unable to do so effectively, is unreasonable and irrational. To give one example in support of this: the SAPS has publicly reported only a 12% detection rate in 2022/2023. The intervention we propose could increase the detection rate of crime considerably.

Clearly, after arresting any person on suspicion of having committed a criminal offence, the arrested person will still be taken to a SAPS police station and the close working relationship between our Officers and SAPS officers will need to be maintained, if not enhanced. However, what this extension of investigative powers will do is enable the City to gather and collate vital evidence and information with respect to any crime that is committed in this



metro and present this to the SAPS and NPA as a completed docket, in pursuit and furtherance of a successful prosecution.

**2. THE FORMAL RECOGNITION OF THE CITY'S RIGHT TO DETERMINE CITY-SPECIFIC POLICING NEEDS AND PRIORITIES, IN THE FORM OF A SUBSIDIARY POLICING PLAN, AND ITS ADOPTION AND SUPPORT IN ANY NATIONAL POLICING PLAN IN TERMS OF SECTION 206 ( 2) OF THE CONSTITUTION HENCEFORTH. THIS CITY OF CAPE TOWN SUBSIDIARY POLICING POLICY MUST BE TAKEN INTO ACCOUNT IN ANY DETERMINATION OF A NATIONAL POLICING POLICY BY THE NATIONAL MINISTER OF POLICE IN TERMS OF SECTION 206 (1) AND (2) OF THE CONSTITUTION, ALTERNATIVELY BY THE PROVINCIAL GOVERNMENT IN TERMS OF ANY ASSIGNMENT TO IT OF THIS FUNCTION UNDER SECTION 206 (4) (B) AND (C) OF THE CONSTITUTION.**

Making this change will entail the City of Cape Town being given subsidiary policing policy determinative powers. It means that in addition to the City still being subject to national policing policy, the Minister of Police would agree to include this Metro's specific policing needs, as put forward by us, as a complementary policy therein and which subsidiary police policy will be more finely attuned to this metro's specific policing needs and priorities.

Such allocation, devolution or assignment of such subsidiary police plan determination to both the City and the Provincial Government is not only constitutionally envisaged but will allow for different and better approaches to policing applying in different geographical areas. The enablement of a decentralisation of the policy directing police service in parts of South Africa via this means can only but enhance the effectiveness of the policing service as a whole.

**3. THE EXTENSION OF THE A PEACE OFFICER'S POWERS, IN TERMS OF SECTION 334 OF THE CRIMINAL PROCEDURE ACT 51 OF 1977 AS AMENDED TO ENABLE PEACE OFFICERS TO ALSO DEAL WITH:**

- Serious offences listed in schedule 1 of the CPA;
- Threats to commuters, persons generally, property or infrastructure;
- Drug- and liquor-related offences;
- Offences related to firearms and ammunition;
- Offences relating to trafficking in persons; and
- Offences relating to the transport of passengers.

City of Cape Town Officers are currently often the first responders to reports of crime in the metro. Our Officers work closely with the SAPS Officers, and there is often simultaneous response to criminal incidents. Such response can be rendered more effective by the lawful allocation, by way of assignment or promulgation of the above additional policing powers in terms of section 334 of the Criminal Procedure Act as amended, to augment the current powers of our Peace Officers.

Since I last addressed you regarding the above request, a myriad of further salient facts have emerged which only strengthen the rational motivation for these requests, including the recent summary of resourcing in relation to performance in the SAPS in recent years (see Crimehub 2012- 20) and the ongoing gang-related violence this City is subject to continues most recently at an escalating rate.

The above notwithstanding, the City continues to do everything in its power to combat crime in the City, in collaboration with our SAPS colleagues, and will continue to do so pending the outcome of this engagement.

The current highly centralised system of policy determination and policing service delivery in South Africa is failing all of us and there seems to be no relief on the horizon. One of the easiest means to mitigate this is to further empower qualified, capacitated and proven metro officers with the previously mentioned policing powers, and so immediately supplement SAPS' own crime prevention and investigative powers.

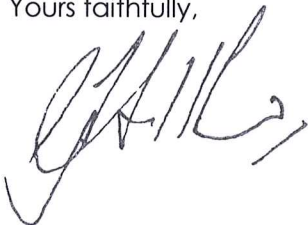
In the face of these facts and given where this City finds itself with respect to the scourge of crime being faced by almost every sector of society, we simply cannot continue to accept that your refusal or silence to engage on the merits of our request for the three interventions set out above, is rational or reasonable.

I thus again hereby request both your agreement and support for the implementation of the three legislative and policy intervention actions set out above, to enable the required investigative, sector planning, and legislative powers to our officers.

Please can I ask that you at the very least now provide us with a written response to this request, after due consideration of the content and motivation in this letter as well as my three prior letters addressed to you in this regard, so that in so far as you may have legitimate reasons for declining some of this request, we will at least be provided with an opportunity to consider same and engage on these issues in a mature, collaborative manner, as obligated under our Constitution?

I look forward to hearing from you.

Yours faithfully,



**GEORDIN HILL-LEWIS**  
**EXECUTIVE MAYOR**

**CC to:** The Provincial Minister of Community Safety: Honourable Regan Allen  
**Per email:** [reagen.allen@westerncape.gov.za](mailto:reagen.allen@westerncape.gov.za)