Amapolisa angawasebenzisa xa kutheni ngokusemthethweni amandla?

Nanini na xa amapolisa esebenzisa amandla kufuneka abe egunyaziswe ngokusemthethweni. Oku kubhekiselele (i) kwiimeko ezo asebenzisa amandla kuzo, (ii) nakubungakanani bamandla lawo asetyenzwayo ngokunjalo.

Amapolisa anokusebenzisa amandla kwezi meko zilandelayo:

Ukuzikhusela
Amapolisa (nabanye abantu) anokusebenzisa amandla xa ezikhusela okanye xa ekhusela abanye abantu ekulinyazweni, okanye xa ethintela ukonakaliswa kwempahla.

Ngenjongo yokusetsha umntu okanye indawo
UMthetho weNkqubo yoLwaphulo-mthetho (51 ka-1977), Criminal Procedure Act, uthi ukuba amapolisa anoluvo oluthi umthetho waphuliwe, analo ngokomthetho igunya lokusetsha umntu othile okanye indawo. Anokusebenzisa amandla 'ayimfuneko nafanelekileyo' kuphela ukuze abe nako ukoyisa nakuphi na ukwala ukusetshwa okanye ukungena kuloo ndawo. Amandla asetyenziswayo anokubandakanya ukwaphulwa kweengcango okanye ukuqhekezwa kweefestile zendawo. Ukuba anqwenela ukusetsha indawo ethile kufuneka kuqala 'anyanzelise vakalayo ukuba avunyelwe ukungena kuloo ndawo' kananjalo achaze injongo yawo yokufuna ukungena kuyo. Kodwa akufuneki ukuba ayenze loo nto ukuba anoluvo, ngezizathu ezivakalayo, lokuba isiphumo sokwenza njalo kungaba kukutshatyalaliswa kwaloo nto ayifunayo. Kuya kufuneka akwazi ukukuthethelela enkundleni nakuphi na ukusetyenziswa kwamandla.

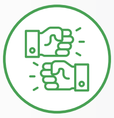
Ukuze kuqhutywe inkqubo yokubamba
Ngokwecandelo 49 (2) loMthetho weNkqubo yoLwaphulo-mthetho[1], amapolisa anokusebenzisa amandla ukoyisa ukwala ukubanjwa okanye ukuthintela ukubaleka komntu. Oko angakwenza kuphela ukuba umntu lowo ucaciselwe gca ukuba azimisele ukumbamba, kwaye ayikho indlela yokumbamba loo mntu kungasetyenziswanga amandla. Ukuba amapolisa asebenzisa amandla angafunekiyo xa ebamba umntu, anokujongana nololuleko okanye ukubekwa ityala lokwaphula umthetho.

Ulawulo lwezihlwele
Umthetho olawula iindibano, ekuthiwa yi-Regulation of Gatherings Act (205 ka-1993) nawo ukwavumela amapolisa ukuba asebenzise amandla kwiimeko ezithile xa echita izihlwele.

[1]Amandla okubamba athathelwe ingqalelo kwi candelo 40, 42, 44 no 47 kwi Criminal Procedure Act (51 ka-1977).

Ubungakanani bamandla asetyenzisiweyo

Umthetho i-SAPS Act (Umthetho 68 ka-1995) uthi, kwiimeko apho agunyazisiweyo ukuba asebenzise amandla, amapolisa ‘anokusebenzisa kuphela awona mandla angephi afanelekileyo kwezo meko.’ Ezo meko zichaziwe apha ngasentla. Nangona kunjalo, amapolisa akanakusebenzisa amandla ngayo nayiphi na enye injongo efana nokusongela okanye ukohlwaya umntu ambambileyo okanye ukumnyanzela ukuba aphendule imibuzo. Ukuba enza njalo ayakube ophula umthetho kwaye anokujongana nesohlwayo ukuba kuxeliwe oko.



Amandla abulalayo

Icandelo lama-49 (2) loMthetho weNkqubo yoLwaphulo-mthetho likwachaza iintlobo ezimbini zeemeko apho lowo ubambayo anokusebenzisa khona amandla abulalayo (umz. ukusebenzisa umpu):

- Eyokuqala yezi yimeko kuxa ezikhusela kodwa kuphela xa umntu lowo ‘ebonakalisa ukuba angaba nobundlobongela oboyikekayo kulowo umbambayo okanye kuye nawuphi na omnye umntu’.
- Okwesibini kuxa umntu ‘ekrokrelwa, ngezizathu ezivakalayo, ngokwenza ulwaphulo-mthetho olubandakanya ukonzakalisa okanye ukugrogrisa ngokonzakalisa umzimba’.

Njengazo naziphi na ezinye iimeko apho kusetyenziswa khona amandla, amandla abulalayo anokusetyenziswa kuphela ukuba azikho ezinye iindlela ezifanelekileyo lowo ubambayo anokuthintela ngazo isoyikiso sobundlobongela okanye anokubamba ngazo. Oku kunokusebenza kuphela kwiimeko apho, ngezizathu ezifanelekileyo, kubonakala ngathi ukusetyenziswa kwalo naliphi na inqanaba elinganeno lamandla akuyi kusebenza.