

## SOUTH AFRICAN HUMAN RIGHTS COMMISSION

Sentinel House  
Sunnyside Office Park  
32 Princess of Wales Terrace  
**Parktown**  
2001

Private Bag X 2700  
**Houghton**  
2041

Tel.: 011 877 3600



Ref: 13/7/5/4.7

20 December 2024

**Lieutenant-General Sehlahle Masemola**  
**National Commissioner of the South African Police Service**

Maupa Naga Building, 3rd Floor  
3 Troye Street  
Pretoria

Per email: [response@saps.org.za](mailto:response@saps.org.za) / [selepemashadi@saps.gov.za](mailto:selepemashadi@saps.gov.za)

Dear Gen Masemola,

**RE: THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION'S CONCERNS WITH CONTINUED CANNABIS-RELATED ARRESTS DESPITE SAPS MORATORIUM ON ARRESTS**

1. Cordial greetings from the South African Human Rights Commission ('Commission' or 'SAHRC').
2. The Commission is an independent state institution established in terms of section 181 of the Constitution of the Republic of South Africa, 1996 ('Constitution'). The Commission is, in terms of section 184 of the Constitution and the South African Human Rights Act 40 of 2013 ('SAHRC Act'), mandated to promote, protect and monitor the observance of human rights in South Africa.
3. The Commission wishes to express its deep concern over the number of human rights complaints that it continues to receive in respect of the arrest of adult private users, possessors, and cultivators of cannabis – particularly within the Rastafari community – by the South African Police Services (SAPS).
4. In terms of *Minister of Justice and Constitutional Development v Prince 2018 (6) SA 393 (CC)*, the private use, possession and cultivation of cannabis by adults has been decriminalised since 18 September 2018. Thereafter, the Cannabis for Private Purposes Act 7 of 2024, which provides for the legalisation of the private use, possession and cultivation of cannabis by adults, was assented to on 28 May 2024 and published in the Government Gazette on 3 June 2024.

Together, respecting and realising human rights.

**Chairperson:** AC Nissen; **Commissioners (Full-Time):** P Ntuli; ENB Khwinana; WH Boshoff; T Madlingozi.

**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**

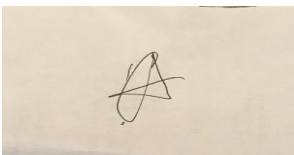
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5. Most importantly, on 23 August 2023, you issued a national directive to the SAPS titled 'Arrests by the South African Police Service for Cannabis – Related Matters', which imposed a moratorium on arrests for the private use, possession, and cultivation of cannabis by adults. The directive also acknowledged that no current legislation or regulations specify the quantity of cannabis that can be presumed to be dealing in cannabis, thereby extending the moratorium to such arrests as well.
6. The Commission is concerned that both the Constitutional Court judgement, and the national directive for SAPS referred to above, are widely disregarded by members of the SAPS, as cannabis-using communities continue to be regularly arrested, detained and subsequently released after a few days, often without formal charges being filed. We therefore urge your Office to remind and sensitise all SAPS officials to refrain from making cannabis-related arrests that may lead to violations of human rights.
7. We wish to engage further with you on the matter of cannabis use, possession, and cultivation, and will communicate our desire for discussions in the new year.
8. Lastly, we would like to take this opportunity to thank the SAPS for the increased deployment of its officers during this festive season and for the various targeted operations they have implemented. The Commission supports the work and efforts of the SAPS and wishes you and all SAPS officials across South Africa a safe festive season as you continue your vital work in law enforcement and crime prevention.

Yours Sincerely,



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**REV. CHRIS NISSEN**  
**CHAIRPERSON**  
**SOUTH AFRICAN HUMAN RIGHTS COMMISSION**