...the subtle manner in which they operate does not always make it possible to charge them in courts of law. There are other detainees against whom charges can be laid in court. But because of the sly manner in which they work, it sometimes takes a long time to investigate their cases in order to obtain sufficient evidence. In other cases, again, these people are held as a preventive measure.

H. J. Coetsee,
South African Minister of Justice
Torture by the security police is an established fact in South Africa and in occupied Namibia. Many who have passed through their hands and survived have given testimony - eloquent in its grisliness - to their ordeal and that of others. Evidence in the too infrequent court cases has added to the picture of security police interrogation methods. Inquests into the deaths of the many political detainees - such as that of the murdered Steve Biko - provide further proof of the unbridled power of the South African Police which reaches beyond the jail into all of South African society. Now the Detainees' Parents Support Committee has prepared an extraordinary document detailing the horror: 'Security Police Abuses of Political Detainees', which was released while an inquest court in Johannesburg was examining the circumstances of the death in detention of Dr Neil Aggett. Through the legal brief/clinical report language there emerges a determination by these South Africans to rid their country of one of its most pervasive evils.

(This report is obtainable from ECSA at the cost of postage and handling: $1.00)
During April, 1982, a memorandum prepared by the Detainees' Parents Support Committee (DPSC) claimed that systematic and widespread methods of torture were employed by the Security Police during the interrogation of detainees.

The Minister of Law and Order, to whom this memorandum was presented, rejected these allegations. Subsequently, an officer of the CID approached the DPSC, having been appointed to investigate the allegations made in the initial memorandum.

In response to this, the DPSC has submitted over 70 statements from ex-detainees, in which various forms of torture, intimidation and pressure are alleged. Copies of these statements have been sent to both the Minister of Law and Order, and the CID officer appointed to investigate the allegations levelled.

In the 70 statements, the following are, inter alia, claimed:

- 20 cases of sleep deprivation;
- 28 cases of enforced standing for long periods, and enforced physical exercise and exertion;
- 25 cases of being kept naked during interrogation;
- 11 cases of suspension in mid-air;
- 54 cases of beating, slapping, kicking, etc;
- 22 cases of electric shock torture;
- 14 cases of attacks on the genitals.

Various forms of psychological torture and intimidation are also alleged.

We enclose, for your information, a report based on the statements, which has been submitted to the Minister of Law and Order. We also enclose a copy of the original memorandum submitted to the Minister.

In our opinion, the memorandum confirms the allegations set out in our original document, and establishes that systematic and wide-spread torture is an integral feature of the detention system.

We are convinced that the modifications and safeguards introduced after the recommendations of the Rabie Commission afford no real protection for detainees caught up in the system of security detention.

Only the abolition of all detention-related security legislation can end the wide-spread horror of secret interrogation, removed from public and judicial scrutiny.

Copies of the enclosed memorandums have been delivered to, inter alia:
- The Minister of Law and Order;
- Mrs Helen Suzman, MP,
- The Association of Law Societies;
- Professor CJR Dugard, director of the Centre for Applied Legal Studies, University of Witwatersrand;
- Mr A Chaskalson, SC, chairman of the Johannesburg Bar Council;
- Professor J van der Vyfer, chairman of the Lawyers for Human Rights.
DETAINEES' PARENTS SUPPORT COMMITTEE

MEMORANDUM on

SECURITY POLICE ABUSES OF POLITICAL DETAINEEs

1. BACKGROUND

On 27th April 1982, a delegation representing the Detainees Parents Support Committees of Johannesburg, Durban and Cape Town met the Ministers of Law and Order and of Justice and presented to them a memorandum in which it was stated that the DPSC was concerned that widespread and systematic use was being made by Security Police of assault and torture during interrogation of detainees. It went on to enumerate many of these abuses, and requested a clear statement from the Ministers as to the official constraints on interrogation procedures. The DPSC called for a Code of Conduct for interrogators and an independent system of monitoring their behaviour.

In reply the Ministers rejected the allegations and said they would deal with them in due course. A few days later, the Commissioner of Police, General Geldenhuys, issued a statement ordering an extensive investigation into the allegations, saying that those making them would be approached for statements, and be afforded an opportunity to substantiate their claims.

A week later members of the DPSC delegation were approached by a high-ranking officer of the CID who had been appointed to investigate the allegations. He also raised the possibility of a prosecution against the persons in terms of Section 27 of the Police Act if the allegations against the police could not be proved. The DPSC was requested to furnish statements to the CID so as to substantiate their claims. The DPSC was further requested to confine their allegations of improper treatment of detainees to the preceding 6 months.

The DPSC rejected the submission that any investigation should confine itself to the period from mid 1981. Firstly, many of the officers alleged to have participated in earlier incidents are still serving in the Security Police. Secondly, the DPSC can see no logical reason in drawing a distinction between alleged practices of torture in 1980 and 1981. Indeed the research and allegations reveal no marked difference between the pattern of abuses alleged to have been committed after this period. Finally, the DPSC made it clear that they would draw on all available channels of research to substantiate their claim including court judgements, inquest records and civil actions, and not merely the statements of detainees who were held during that period. The DPSC sought an assurance that the object of the investigation was the practice of torture itself and that the DPSC or individual deponents would themselves not be harrassed.

The DPSC has now submitted to the CID over 70 sets of allegations concerning abuses in one form or another by Police Officers.

It must be stated that the statements so far submitted do not represent the totality of evidence on the systematic use of torture or improper treatment of detainees. For different reasons some statements that were obtained were not relied upon. No thorough attempt was made to collect statements from
convicted prisoners who have allegedly been tortured. Some former detainees for reasons ranging from fear to scepticism about the genuineness of the investigation declined to provide statements for remission to the CID. The DPSC has experienced difficulties in tracing informants to obtain permission for the use of their statements. But the research so far should be viewed only as an incomplete sample of the widespread allegations of torture perpetrated on detainees. Copies of the statements have been submitted to the Ministers of Law and Order and of Justice. It is anticipated that further statements will be submitted in due course.

2. SOURCES OF STATEMENTS

The allegations have been drawn from statements by former detainees, admissions by the State itself, court proceedings and actual court judgements. The majority of the allegations deal with the recent period 1981-1982 while some date back to 1978. We have not sought to refer to the much publicised inquests and earlier trials wherein substantial evidence of assault and maltreatment emerged, e.g. the Biko inquest, the Mdludli inquest, the trial of S. v. Ndou and others.

3. EXTENT OF MALPRACTICES

The statements so far submitted confirm the concern felt by the DPSC regarding the incidence and extent of malpractices in the treatment and interrogation of detainees. While the DPSC is alive to the possibility of an inaccuracy in a particular statement submitted in good faith, the DPSC believes the statements submitted so far reveal a clear picture which as a whole cannot be ignored.

The practices, more fully categorised below, range from mere bullying or neglect to third degree brutal torture.

Furthermore, the allegations of malpractices are not confined to any particular centre. Places at which they are reported to have occurred include police stations at all the major centres in South Africa. The places most commonly cited in the most serious allegations are Protea (Soweto), Sanlam Building (Port Elizabeth), and John Vorster Square (Johannesburg). Included in the scores of Security Police named as being involved in these malpractices are at least 20 commissioned officers up to the rank of major. Some members were categorised as experts in, for example, electric shock torture.

Nine of the statements submitted so far deal with women detainees.

Only a small minority of the persons allegedly assaulted or abused were eventually convicted of any offence. The vast majority were not even charged. Of course even where persons have been convicted the use of cruel or improper treatment can never be condoned.

The DPSC has sought to exclude those statements that deal with torture perpetrated on detainees in the former homelands. However, in this memorandum it must be pointed out that this is not to be interpreted as either an indication that such practices do not occur there OR that such practices are irrelevant. In the first place allegations of maltreatment of detainees in these territories have become increasingly common. Associated with these allegations have been further allegations of a close working relationship between
the security apparatus of these territories and South African security officials. The most recent allegations concern the treatment of Reverends Phosiwe, Phaswana and Farisane in the Republic of Venda. These three priests were so badly assaulted, suffocated, and electrically shocked that they falsely 'confessed' to crimes they had not committed. During the course of the investigation one Isaac Mufhe died during interrogation. The inquest magistrate found that two members of the Venda Security Police were responsible for his death as a result of an unlawful assault. The attorney-general of Venda dropped all charges against the priests despite having signed 'confessions' from them. Reverend Phosiwe alleges that a white officer from South Africa had been seconded to assist in the investigation.

4. NATURE OF ALLEGED MALPRACTICES

The DPSC believes that the statements submitted to date corroborate the basic pattern of maltreatment alleged by them in their first memorandum to the Minister. In this memorandum the DPSC restates its concern over possible treatment of detainees. The statements submitted to the Ministers reveal a repetition of certain types of malpractice over a wide area. The DPSC summarises the main areas of misconduct revealed in the statements hereunder and specifically draws attention to the seeming pattern of conduct.

4.1 PHYSICAL ABUSE

The statements contain numerous complaints of prolonged and intensive interrogation, sometimes by successive teams of interrogators and sometimes for a continuous period of several days. Coupled with this intensive interrogation are alleged practices designed to reduce the detainee to a state of exhaustion and compliance with the interrogator's suggestions. These include the following:

4.1.1 Deprivation of sleep in at least 20 cases, some for periods of many days and nights. In one case involving lengthy sleep deprivation the police made payment of substantial damages arising out of their treatment of the detainee culminating in her being found in a comatose condition by the district surgeon. Prolonged sleep deprivation can have serious affects on a person's mental state.

4.1.2 Deprivation of food and drink whilst being interrogated.

4.1.3 Deprivation of toilet facilities in 8 cases which in some cases led to involuntary urination and the humiliation of cleaning the interrogation room thereafter. In one instance a detainee alleges he was obliged to drag a large chain to which he had been handcuffed when going to the toilet which made access impossible.

4.1.4 Enforced standing and arduous physical exercises in over 28 cases for long periods, sometimes days and nights. The exercises included holding heavy objects above the head, standing barefoot on bricks, press-ups, running on the spot.

4.1.5 Exposure to cold in 25 cases by being kept naked for long periods sometimes several days and nights. In some cases discomfort was increased by being doused with water, made to stand in front of a fan or open window.
4.1.6 Enforced suspension is reported in 11 cases. Most of these involve a method referred to by some Security Police as the 'Helicopter', in which the detainee is handcuffed at the wrists and at the ankles, and while in a crouching position, a pole is inserted through legs and arms. He is then suspended on the pole between a table and a chair, sometimes for hours on end, while being subjected to a barrage of questions and sometimes blows. Other cases include suspension by the arms while handcuffed. This suspension causes acute and excruciating pain.

4.1.7 In 54 cases, including 6 women, hitting with fists, slapping, kicking, beating with sticks, batons, hosepipe, gun butts and other objects, crushing of toes with chairs or bricks, dragging by hair, banging head on wall or table and throwing or pushing against a wall, are the more common forms of assault. Some of the injuries which have resulted are perforated eardrums, broken teeth, loss of sight in an eye, damaged kidneys, and bladder and permanent scarring. One Linda Mogale was found by the court to have had his teeth broken allegedly by pliers.

4.1.8 Suffocation is reported in 25 cases, mostly by hooding with a bag made of canvas or plastic. Hooding appears to have several purposes, firstly to induce near suffocation when the bag is pulled tightly around the neck, secondly to heighten the terror of the situation and thirdly to hide the identity of the interrogators or the nature of the equipment when electric shock is being applied. Other forms of suffocation include the use of a wet towel, or choking by hand or cord. In many cases the detainees are alleged to have lost consciousness.

4.1.9 Electric shock is alleged in 22 instances. Invariably the detainee is hooded or blindfolded so that he never sees the equipment used or the operator. In one case a detainee alleges he was wrapped tightly in a canvas straightjacket before being shocked. In several cases shocking took place at remote spots away from a police station. Shock torture was allegedly applied for protracted periods in several instances, sometimes resulting in loss of consciousness. In one extreme case, the victim started to experience fits as a result of damage to his nervous system. He continued to have fits for three months after his release from detention and approached the DPSC to assist him to find suitable medical attention. In one case two non Security policemen were actually charged with hooding and administering electric shocks to a man in their custody. They pleaded guilty to common assault and were fined 50 Rand. The significance of these allegations, which were obviously accepted by the State, has not received the attention they deserve. What enquiries have been made as to the source of the electrical equipment and the hoods, who trained the policemen in the use of the equipment?

Electric shocks appear to be administered by means of an apparatus which can draw power from a wall plug or a running motor car. The apparatus allows the interrogator to switch the current on and off causing the victim to scream and jerk involuntarily. Electric shocks have allegedly been administered in most of the major centres.

4.1.10 Attacks on genitals are reported in 14 cases. These include hitting, kicking and squeezing of testicles, attaching pliers to the penis and the application of electric shock to the genitals.
5. PSYCHOLOGICAL ABUSE

5.1 Reports of psychological abuse contained in the statements fall into several categories, from the more subtle forms such as isolation, humiliation, and concern about loved ones, to the more obvious forms of intimidation and threats to life and limb.

5.1.1 Isolation: All detainees report being isolated in solitary confinement, as provided for by detention clauses of Security Legislation. The short term and long term effects of solitary confinement have been described by several authorities as more damaging to health than even many extreme forms of physical abuse. Detainees refer to the psychological impact of being transferred from the limited period detention of Section 22 to the indefinite detention provided by Section 6 (a situation which the Security Police did not fail to exploit). One detainee reports being held for 45 days before interrogation commenced; this constitutes a refined form of torture apart from being a gross violation of the purpose of detention as stated in Security Legislation.

5.1.2 Humiliation and degradation: Many detainees complain of actions apparently designed to humiliate, degrade and 'break' them. The denial of toilet facilities, apart from physical discomfort, has a humiliating effect, especially when the detainee is no longer able to contain himself, and is then compelled to clean up the room. Verbal abuse and ridicule was reported in several cases, sometimes combined with enforced self-abuse, and generally of a personal or racial nature. The statements also include reports of denial of washing facilities and being forced to scrub floors of the interrogation room.

5.1.3 Intimidation: The frequent use of highly intimidatory and aggressive situations as a prelude to direct threats or actual violence, is referred to in the statements. The most common of these is being compelled to strip naked or near naked (reported in 25 cases) as in the case of Stephen Biko, which serves to accentuate the vulnerability of the detainee, who may be held in this condition for days.

5.1.4 Hooding: Another commonly reported practice (19 cases) is hooding, which apart from other purposes, produces disorientation and fear of the unknown. Detainees complained in several instances of being removed from the police cells and driven to isolated spots in the bush which also created a similar condition of disorientation and extreme fear.

5.1.5 Threat to life and limb: Allegations of death threats to 11 detainees are contained in the statements. Apart from verbal threats, a firearm has been drawn in some cases, in one instance inserted and cocked in the detainee's mouth and in another fired next to the detainee's feet in an isolated area. One detainee alleges that an open knife was held to his throat. Threats to drop from a high building are also reported, or the simulation of being held or thrown out of a window.

In 13 statements, threats of torture and assault are reported. These include being threatened with the use of an undefined apparatus with the appearance of headphones, being burned with a lighted cigarette and being taken to the 'waarkamer' (truth room).
5.1.6 Threat to loved ones: Threats relating to children, parents and wives and close friends are alleged in 6 statements. These include threats to kill or detain such relatives. One woman alleges she was assaulted in the presence of her baby, whilst another had her 2½ year old child taken into custody with her, then forcibly removed a day later. In one case the detainee was told that her young child would be removed from her custody unless she made a statement. The use of untrue reports about the welfare of loved ones is also claimed in some instances.

5.1.7 Indefinite detention: Many detainees allege that their interrogators have exploited their vulnerability by emphasising that the detainee will not be released until the interrogator is satisfied with the answers. This power to detain people indefinitely is capable of gross abuse and there are cases where persons are held in isolation under security legislation for lengthy periods sometimes in excess of a year for no apparent purpose. The particular abuses which have come to the attention of the DPSC are those where:

5.1.7.1 a person is questioned at the beginning of his period of detention and may then remain in detention for several months without further questioning. This is an abuse of the law.

5.1.7.2 a person is detained and not questioned at all for a lengthy period after his initial detention. This is also an abuse of the law.

5.1.7.3 prior to the 1982 Internal Security Act people were detained under Section 22 of the General Law Amendment Act when it was well known to the Security Police that there was no intention to release the detainee within the 14 days provided and that the detention would continue in terms of Section 6 of the Terrorism Act. This was done to facilitate the admission of a confession obtained during the period of 14 days. The detainee was left with the impression that he might be released after 14 days and this created false expectations which were cruelly unfulfilled and harmful to the morale of the detainee. This was a further abuse of the law.

6. HEALTH CONSEQUENCES

In addition to the physical injuries brought about by assaults many detainees complain about the longer term psychiatric effects. The general health of 3 of the detainees concerned deteriorated to the point where the authorities found it necessary to hospitalise them during the course of interrogation. Five detainees had to be hospitalised on release from detention, or required medical attention. One of the detainees, Dr Neil Aggett, died whilst in detention.

7. AN EXAMINATION OF SAFEGUARDS

Code of Conduct for Interrogators

It is very difficult to establish whether an official code of conduct for interrogators actually exists. No response has been forthcoming from the Minister of Law and Order to this question which was posed by the DPSC in its memorandum, other than to reject allegations of assault and torture. During a Parliamentary debate in February 1982, in response to a question by Mrs Suzman, Mr Le Grange gave a 'categorical assurance that inhuman and degrading methods of interrogation of detainees under Section 6 are not used by the Security Police'.
Later, during the debate on the Internal Security Bill, he announced an investigation into the conditions under which detainees were held and interrogated, to be conducted in consultation with the Commissioner of Police and the Director of Security Legislation, and that broad guidelines would be announced at a later stage.

The "Citizen" newspaper of 11th August 1982 reports that Mr Le Grange, during an interview with foreign reporters, had said that a small number of men had been charged with violating the standards on the treatment of prisoners (detainees), but did not say what these standards were.

The "Rand Daily Mail" of the same date reported that Mr Le Grange had said he was considering drawing up a voluntary (?) code of conduct for policemen involved in detentions. A week later he referred to the investigation announced in Parliament and went on to say that 'what is envisaged is not a statutory code but a set of rules or directions which will be binding on all concerned and will augment the instructions already issued by the Commissioner of Police in regard to conditions of detention'.

It is not known what standing orders or constraints regarding conduct by interrogators are in force. Prima facie the widespread malpractices alleged would indicate that if such code is in existence it is not taken seriously. Indeed such alleged instruments as hoods and electrical apparatuses seem to be conveniently available. Any 'code' that does exist does not appear to have a monitoring or enforcement procedure. A 'voluntary' code for interrogators can only be described as absurd.

8. "VISITS"

8.1 Visits by Magistrates and the Inspector of Detainees:

The 1982 Internal Security Act makes provision for compulsory fortnightly visits by a magistrate, District Surgeon and the Inspector of Detainees. The allegations submitted by us indicate that procedure as it existed under previous legislation has provided an appearance of a safeguard against improper treatment of detainees, whilst failing in many instances to be an effective check. The main complaints advanced for this failure have been:

8.1.1 the identification by the detainee of the magistrate with the interrogators. This occurs particularly where the magistrate questions the detainee in the presence of the Security Police. On other occasions this is the result of the confusion in the mind of the detainee as to the difference between the branches of the state's judicial and law-enforcement agencies, or simply where the detainee does not accept that the magistrate is the person he purports to be.

8.1.2 some detainees complained that they are warned by their alleged assailants not to report any improper treatment to the magistrate on pain of further assaults or removal of privileges, etc. The magistrate has no power to restrain the detainee's assailants from having unsupervised access to the detainee. Detainees have reported that they can see little benefit and substantial risk in reporting incidents of maltreatment to the magistrate.
8.1.3 some of those detainees who have reported assaults to the magistrate allege that they have indeed been subjected to intimidation and duress which has led them to retract their statements.

8.1.4 detainees have alleged that the Security Police are in a position to prevent the magistrate from visiting the detainee by informing him that the detainee concerned is away, or by physically removing him from the cells for the day. The very same allegations 8.1.1 to 8.1.4 concerning the visiting magistrate pertain to the Inspector of Detainees. (See evidence of Inspector mentioned in the Aggett inquest.)

In particular detainees who are alleged to have reported assaults to either of the officials on the condition that such a complaint is not relayed to the Security Police who have assaulted them have later been confronted by their alleged assailants. In the 1982 Act the Inspector is specifically required to report irregularities to the person in charge of the place where the detainee is being kept.

9. THE DISTRICT SURGEON AND HEALTH CARE

There are various allegations that concern the ability of the District Surgeon to protect the detainee from maltreatment and ill health. These are:

9.1 allegations of cursory examination, e.g., where details of injuries are not recorded or causes inquired into.

9.2 allegations of detainees being visited or seen by District Surgeons irregularly or not at all. The most serious allegations concern the denial of access to further medical treatment by the police until the detainee has satisfied the police. As detainees' access to medical inspection is vetted by the Security Police they are also able to refuse a request.

9.3 allegations concerning the administration of medicine by the police themselves or neglect in carrying out the instructions of the District Surgeon. The capacity in law and practice for police officers to overrule the decision of the District Surgeon on the medical treatment of a detainee is absolutely unacceptable.

9.4 allegations that examinations and inquiries by the District Surgeon are carried out in the presence of the Security Police.

9.5 allegations that detainees are warned not to reveal maltreatment to the District Surgeon, or that they are compelled to reveal to the police what transpired in the course of the examination or to retract what they had told the District Surgeon.

9.6 allegations that a District Surgeon has reported to the police the information he has obtained from his patient.

9.7 allegations that the District Surgeon attempted to assist the police rather than the detainee. For example, where a District Surgeon failed to dress or disinfect 3 bullet wounds in a detainee or to hospitalise him as she felt it was better that he assist the police; or where the District Surgeon asked the police questions about the detainee's health and not the
detainee; or where a District Surgeon appears to have falsely reported to
the Attorney-General concerning the injuries suffered by persons assaulted.

9.8 it appears that the District Surgeon in some cases is the doctor who cares
for the police personnel in the area and may have a professional or person-
Al relationship with the individual interrogators or Security Policemen.

10. LAYING CHARGES

There are theoretically several ways in which detainees can or have laid
charges against their assailants. They may have complained to the magistrate,
the Inspector of Detainees, the District Surgeon or the Station Commander of
the police station in which they are being held. In those cases where the
complaints have been taken up, the procedure is for the CID of the South Af-
rican Police to interview the complainant. Where the victim wishes to go
ahead with the complaint the CID conduct an investigation, and thereafter the
docket is referred to the Attorney-General. There are extremely few cases
where Security Policemen have been actually charged, and the DPSC knows of
none where any have been convicted. This is revealing, given

10.1.1 the many court findings in inquests and trials in which maltreatment was
found to have occurred;

10.1.2 the assumption of civil liability by the State for alleged assaults or
maltreatment;

10.1.3 the sheer volume of complaints and allegations of assault on detainees.

The allegations suggest several reasons why the successful prosecution of
these assaults is infrequent.

10.2.1 The investigation of the allegations by the Criminal Investigation Division

The investigation by the CID is hampered by many of the factors mentioned
above, viz, the CID cannot protect the complainant from further assaults;
the CID cannot prevent duress being applied on the complainant to withdraw
the charge; the CID is associated with the Security Police in the eyes of
the complainant. Allegations concerning each one of these factors has been
cited in the affidavits.

The impression may be gained that there may be collusion between the CID
and their Security Police colleagues, especially where they are based in
the very same Police Station. In the Makhoba case the investigating offi-
cer was one of the alleged assailants on behalf of whom the State later ad-
mitted liability for assaulting the detainee. Where there is an investiga-
tion the CID are faced with the difficult task of compiling a docket on the
exclusive evidence of the complainant.

10.2.2 Absence of protection

Because the detainee is in a vulnerable position in relation to his inter-
rogators who may call on him or remove him at will, many of the detainees
stated that they felt open to further assaults of the very kind that they
wished to complain about and there are allegations that complaints have led
to further assaults. Consequently the complainants have alleged that it seemed better to leave things be, rather than complain as the complainant could only worsen their position or delay their release. The only reason for pursuing a charge would be an abstract sense of personal justice. Even this reason counts for little if the complainant believes that it is extremely unlikely that the prosecution would succeed.

10.2.3 In addition to the problems faced in laying a charge the detainee faces formidable problems in adducing proof in support of his claim. He has no witnesses. His assailants may lead many witnesses to say how well he was treated, how co-operative he was, how happy he was. If he can actually produce evidence of physical injury the assailants may allege a variety of reasons as to how he acquired these, viz, falling down steps, hitting his/her head against a wall.

However the preponderance of cases deal with maltreatment that would leave no physical mark, (see above - deprivation of sleep, exercises, humiliation, exhaustion, electric shocks, suffocation, deprivation of toilet or food, psychological attacks, threats of violence or death, slapping with an open hand, exposure to cold or heat, promises of release, etc.) Even where more violent assaults have allegedly been perpetrated, e.g., where bruising is extensive, there is no guarantee that the victim will see a District Surgeon while such bruising is evident. And even where the District Surgeon does record such injuries, the detainee will still have to prove the cause thereof. The accused (i.e., the police) will be entitled to the benefit of the doubt where such injuries may possibly have arisen from another cause.

It is alleged that members of the Security Police openly informed detainees that they can evade conviction for assault while simultaneously bragging about the detainees they have allegedly assaulted. In many cases the detainees do not know the names of their interrogators, or when they have been hooded, who was present and what instruments were used.

In one case where a detainee's complaint led to the alleged assailants actually being charged, the policemen were acquitted, although the District Surgeon stated that she could not have obtained her injuries by inflicting them on herself. The Court effectively accepted this to be the case. Persons following this trial may interpret this case (possibly erroneously) as indicating the futility of laying charges against the Security Police. Some detainees suspect that if charges are successful-ly laid there may be a lack of rigour or enthusiasm in the investigation of the case.

11. THE MINISTER'S RESPONSE

11.1 For the above reasons we feel that the Minister's response to allegations of torture (that there has been minimal success in the reporting of assaults, and the prosecution thereof and that accordingly such maltreatment does not occur) is not sufficient to allay the concern of the DPSC that such treatment occurs.

11.2 The Minister has also alluded to the disparity between all the allegations and the number of successful civil claims. Here we refer to many of the reasons mentioned above, viz, fear of further recrimination by the police felt by many detainees, the problems of adducing proof, the
feeling that the Courts will not readily accept the sole evidence of a former detainee against the word of numerous police officers, absence of permanent physical scars. There are however two further reasons specifically relevant. The first is that an action against the police effectively prescribes after five months. Persons held under security legislation are incarcerated without access to their lawyers for periods frequently in excess of this period. Secondly, if they have been too frighted to complain or press charges at the time of the assault this may count against them in the civil proceedings.

11.3 Indeed the so-called safeguards against torture appear to be worse than ineffective if regard is to be had to the statements and other evidence. Magistrates reports that a detainee did not complain of assault when visited have been used against a detainee in subsequent criminal and civil trials. However where persons did complain and their Counsel attempted to subpoena these officials to testify the officials successfully claimed privilege and refused to produce their reports. The very procedure which was supposed to protect detainees appears to operate more effectively to stifle claims of assault than it has done to prevent assaults taking place.

12. CONCLUSION AND RECOMMENDATIONS

12.1 The DPSC has not been convinced by the Minister's denial that cruel or humiliating practices are perpetrated on detainees. Indeed the evidence reveals a clear picture of widespread systemic malpractices. The DPSC believes that it has a duty as parents and as South Africans to draw attention to these allegations of prevalent abuse of detainees.

12.2 It is of some concern that the Minister has not answered the legitimate request by the DPSC to explain what official constraints are placed on interrogators. Instead of examining the framework which places unchecked power in the hands of interrogators, instead of recognizing a problem, the Minister has chosen to foreclose any possibility of such an approach by denying outright the existence of such practices and by threatening the DPSC.

12.3 The DPSC makes it clear that it is not its primary objective to seek merely the prosecution of individuals but rather a re-examination of the whole system of unchecked power in interrogation of detainees.

12.4 The DPSC does not purport to offer elaborate or detailed recommendations. The Association of Law Societies, the Bar Council and other professional bodies have already done so. There is considerable expert evidence of protection available to detainees in other countries.

12.5 The DPSC reiterates its opposition to the current security legislation and in particular the provisions enabling indefinite incommunicado detention without access to the courts. However so long as such legislation is in existence then the DPSC believes the following minimum rights should be accorded to a detainee:

12.5.1 access to a lawyer,
12.5.2 access to relatives,
12.5.3 access to a doctor of choice,
12.5.4 access to reading material of choice.

12.6 Furthermore there should be

12.6.1 an enforceable code setting out standards of interrogation;

12.6.2 an effective and independent machinery for enforcing the policing the treatment of detainees;

12.6.3 clinical and personal independence of the District Surgeon from the Security Police.

* * * * * * * *
MEETING
at 3.00 p.m., Tuesday, 27th April 1982
at Houses of Parliament, Cape Town

MEMBERS OF DELEGATION
Representing Cape Town DPSC
Mr. H. Floyd

Representing Durban DPSC
Mrs. P. Gordhan

Representing Johannesburg DPSC
Prof. H. J. Koornhof
Mr. T. Mashinini
Dr. M. Coleman

BACKGROUND TO DPSC

The DPSC was formed in September 1981 by families and friends of political detainees for the purpose of looking after the interests of all detainees and their families throughout South Africa. It has as its prime objective the abolition of the Detention Laws regarded as uncivilised, and has consistently campaigned for the unconditional release of all detainees and the repeal of these laws. The DPSC has requested this meeting, not for the purpose of engaging in a political debate, but in order to present these demands to the Ministers concerned and in order to seek clarification on certain matters.

PROPOSED AGENDA:

As already indicated, the DPSC wishes to cover the following subjects:

1 - Official parameters of interrogation practices.
2 - Departmental safeguards against abuses.
3 - Principles of detention, provisions of Security Legislation and also the question of bannings.
4 - Separation of Justice and Police responsibility in decisions to detain, prosecute or release.

DETENTION PRACTICES

The DPSC is well aware that detainees, particularly those under Section 6, are being subjected to a variety of forms of torture and assault, both mental and physical. This is being widely done on a systematic basis by many members of the Security Police and at many points throughout the country. These practices cannot be considered to be isolated incidents perpetrated by the odd overzealous interrogator, but are undoubtedly standard procedure sanctioned at some level in the Police hierarchy. To enumerate some of the commoner forms:

a - CONTINUOUS INTERROGATION: Interrogation over a period of several days and nights by successive teams of interrogators. This naturally involves sleep deprivation and can also involve deprivation of food and drink and even toilet facilities.

b - ENFORCED STANDING: Standing for long periods during interrogation, including standing on bricks, standing on one leg, standing in an unsupported squatting position.

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c - HUMILIATION and INTIMIDATION: by being stripped naked during interrogation, handcuffing and manacling, shouting, threatening, insulting and being forced to exercise vigorously. Also holding for long periods in solitary confinement without interrogating.

d - PHYSICAL ASSAULT: including assault with fists and with various objects.

e - PSYCHOLOGICAL ASSAULT: includes false reports of death or illness of dear ones, threat of being held in detention indefinitely and, of course, solitary confinement itself.

f - ELECTRIC SHOCK: The equipment for electric shock is available at many Security Police interrogation centres and is in common use. It is also used in conjunction with 'strait-jackets' of wet canvas.

g - HOODING: Used to induce near suffocation, and also to hide the identity of Security Police engaged in assaulting the detainee.

h - OTHER TORTURES: include hanging by the arms or legs for long periods, alternate immersion of feet in hot and icy water, and subjection to extreme noise.

OFFICIAL SANCTION OF INTERROGATION PRACTICES

The DPSC wishes to have a clear statement from the Ministers as to which of the above practices, if any, are sanctioned by them. In those cases where a particular practice is officially permitted, what limitations are imposed? For example, what is the longest period sanctioned for an interrogation session, how many interrogators at a time, how many teams? Do the Ministers sanction removal of detainees from official Police centres to isolated areas such as minedumps, beaches, farms and open bush for the purpose of interrogation? Or does the Security Police have unlimited discretion as to interrogation procedures?

SAFEGUARDS AGAINST ABUSES

The DPSC knows and understands that provisions are made in Security Legislation for detainees to be visited by Magistrates and Inspectors on a more or less regular basis. In theory detainees are able to lodge complaints about their treatment to any or all of these State appointed officials. However, in practice, detainees are discouraged from doing so by the knowledge that the complaint stays within the system and is further likely to rebound in the form of increased pressure to withdraw the complaint. The closed system is the reason why abuses continue unabated and substantially unchecked. The DPSC maintains that the only way in which abuses can be eliminated is by permitting access to detainees by family, lawyers and independent doctors. That is why the DPSC has consistently requested that panels of independent medical practitioners be appointed to visit all detainees. It repeats that demand now. As a matter of interest, the Medical Association of South Africa is a signatory of the Tokyo Declaration, with Articles 1 and 2 reading as follows:

'1. The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's beliefs or motives, and in all situations including armed conflict and civil strife.
'2. For the purposes of this Declaration, torture is defined as deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.'

PRINCIPLES OF DETENTION LAWS

The DPSC is unable to accept our Security Legislation for two basic reasons.

Firstly, it maintains that the Security Laws are against the interests and security of our country. They may serve to protect the security of this Government, but if a security problem exists, it is of the Government's own making as a result of its policies which deny the peaceful and legitimate aspirations of the majority of the population and drive its expressions of protest into violent channels, as the only course left open. Thus the Security Laws serve to escalate violence and insecurity, as the record shows.

Secondly, the DPSC rejects the detention provisions of our Security Legislation as running totally counter to all internationally accepted tenets of civilised law and the rights of the individual. Even in Northern Ireland, which has a very much greater security problem than South Africa, safeguards exist in their legislation which protect the rights and health of the individual and which limit the detention period to a maximum of 7 days. Section 6 of the Terrorism Act is designed so that the detainee disappears completely from public view, whilst Section 10 (1) (a) of the Internal Security Act (the so-called Preventive Detention clause) is the ultimate in by-passing the courts in order to impose a jail sentence by Ministerial decree. The banning weapon also falls into this category.

The DPSC demands, but does not expect, the scrapping of current Security Legislation whilst this Government persists with its apartheid policies. As an interim measure, however, it would expect the following rights to be accorded equally to all detainees:

- Freedom of access to family (or their appointees).
- Freedom of access to lawyers and to the courts.
- Freedom of access to independent doctors of one's choice.
- An approved Code of Conduct for interrogators.
- Strict control and independent monitoring of interrogation practices.
- Food and clothing parcels.
- Books, newspapers, study materials.
- Letters.
- Prompt and open reporting of detention to family and press.
BANNINGS

The DPSC finds it utterly incomprehensible that any legal system can justify the banning of a person who, after being detained for 5 or 6 months or more for the stated purpose of interrogation, is released without charges. This amounts to trial and sentence by Ministerial decree and can only serve to bring our legal system into disrepute in the eyes of the international legal community.

SEPARATION OF JUSTICE AND POLICE RESPONSIBILITIES

There seems to be a lack of clarity as to the separation of functions and responsibilities between the Department of Justice and of Police when decisions are taken to detain, release, charge, or re-detain under a different act. For example, does the Minister of Justice apply his mind in each and every case to the question as to whether a person should be re-detained under Section 6 of the Terrorism Act after serving out the 14 days under Section 22 of the General Laws Amendment Act, or does he simply rubber stamp a Police decision?

As another example, does the Attorney General return dockets to the Police for another 'try' when he is dissatisfied with the information submitted to him instead of ordering the release of the detainee on insufficient evidence? If so, is this not likely to produce an intolerable intensification of pressure on the detainee and also extend the detention period to extraordinary lengths as we have seen recently?

A further unclear area is the mechanism whereby a Section 6 detainee is transferred to Section 12B (the so-called Witness clause). Does the Attorney-General simply rubber stamp a Security Police decision or does he apply his own mind to such a decision and also to determining the conditions of detentions under Section 12B, in which he is supposed to have discretion?

In an attempt to unravel such questions, the DPSC some time ago (on March 18 and March 30, 1982) approached the Attorney-General of the Transvaal with the request for an interview. However, this was refused in his letter of 2nd April 1982 and the questions contained in the DPSC's letter of the 30th March remain unanswered. They are now referred to the Ministers for their comment.
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