

A Preliminary Assessment of the Impact of the Peace Accord Code of Conduct on Police Behaviour

Paper presented at the Centre for Criminal Justice conference, *Policing in the New South Africa II*, Durban, August 1992.

Janine Rauch is an independent consultant.

Introduction

For decades and longer, the 'security forces' wielded by the Nationalist Party have served the ends of maintaining white privilege in South Africa. The highly politicised role of policing has resulted in the long-term breakdown of the black community's trust in the South African Police as a legitimate law enforcement or crime prevention agency ... however, more than merely being incapable of stemming the tide of political violence, in 1990 the Harms, Hiemstra and Goldstone Commissions of Enquiry all pointed to the appalling inadequacies of the security forces in upholding professional neutrality and in carrying out their roles as custodians of the nation's freedoms.¹

The limited reform and reorientation of the police force which has occurred since President De Klerk initiated the political reform process in February 1990 has had little impact on the community's experience of policing. The South African Police remains seriously alienated from the majority of South Africans. The crisis of legitimacy which has been experienced by the police for a number of years has, in fact, deepened as a result of soaring political and criminal violence since 1990. This is a vicious circle – the effectiveness of the police is limited by their poor relations with the public, and this same ineffectiveness further sours that relationship.

The highly politicised debate about police reform assumes that institutional reform will have a discernable (and quick) effect on police conduct. Even if we accept that some sincere and substantial reforms have been implemented, it is clear that they are not having a desirable short-term effect in terms of improving police conduct or the police-community relation. The reasons for this are based in the complex machinations of the informal police culture.

According to Brogden,² police culture develops from the particular construction of the policing target; and out of the contradiction inherent in the law and order mandate – that law does not always fit with conceptions of social order. Steytler adds that theses on the formation of police culture must address the role of "the dominant political discourse which motivates and gives direction to action".³ With origins in colonial and apartheid systems, it is hardly surprising that the South African Police is characterised by an immensely powerful and highly politicised informal organisational culture.

A crucial feature of policework is that it is discretionary, and therefore law, rules and regulations act as guidelines⁴ for police behaviour, rather than to prescribe it. In the South African context, such discretion was accompanied by formal indemnity for all police actions during successive states of emergency; and continues to be bolstered by a de facto indemnity resulting from "an abundance of permissive rules and a protective legal system which has produced a penal system of immunity".⁵ Furthermore, the discourse of the SAP is still strongly influenced by a doctrine of counter-revolutionary war, which brings with it a tradition of sanctioning informal, covert and extra-legal methods.

Police culture is also characterised by resistance to change:

Police culture exists because it eases the life of working police officers. ... It survives because "police culture and its variations are reflections of the power structures of the societies policed".⁶

For this reason, Brogden maintains that the police culture cannot be altered without a fundamental alteration of the social and political relations of policing, the larger social context. He argues that "any substantive progress in diminishing the influence of the police sub-culture is a function of **external** factors".⁷ The Peace Accord represents part of the process of political change, and one such "external" attempt to reform the South African Police.

Formal police training can be used a formal **internal** attempt to change police behaviour, values and attitudes. However, the organisation's formal objectives, rules and procedures are offset by the effects of the informal culture which determines the work environment in a more real way. Training alone cannot change police conduct.⁸ Training does not only operate on a formal level to shape police practice; but also has an important role in "shaping the soul" of the trainee, of creating in him the appropriate "police identity". One of the most interesting aspects of current SAP training in this regard is the component of "police ethics" which was introduced in the late 1980s.⁹ This course was designed, and initially taught, by the SAP Chaplains. The course on police ethics prescribes, according to Calvinist theology, on matters as diverse as the police-state relation, the choice of a marriage partner and appropriate forms of social conduct.¹⁰

Many police forces incorporate elements of religion into their formal codes and practices, for example, the use of sworn oaths and routine religious services. In the SAP however, the religious discourse is exclusively Christian, predominantly that of the (Afrikaner) Dutch Reformed Church. The theology of the NGK is based on an ideological interpretation of Calvinism,¹¹ and is strongly authoritarian. It penetrates the other discourses of law, race and professionalism to a great extent.

The use of, and reliance on, Calvinist doctrine to teach social values and construct a particular vision of social order is not particular to SAP training, but has long been the foundation of apartheid education policies more broadly. "Christian National" schooling, for example, propagated both Christian and Nationalist (National Party) values. However, in the police force, the use of theocratic Calvinist doctrine is closely linked to explanations of authority, law and police power:

The State has received his authority from God, and has, in his turn, given authority to the police.¹²

Calvinist theory of the state is theocratic in that it sees law and state as finding their origin and legitimacy in the will of God.¹³ It also implies that civil authorities are required to enforce certain moral religious precepts.¹⁴ The function of such versions is to remove **people** from explanations of the police-state and police-society relations. The relationship between the police and the people (which, although it does exist and is seen as important) is mediated through God and the State, removing policed communities as an immediate point of reference or accountability. Such versions tend to obviate the need for forms of accountability other than those which are embodied in the individual's relationship with God.¹⁵

The Police Ethics course manual contains a number of "Codes of Conduct" – the new Peace Accord Code, and two pre-existing documents entitled the "South Africa Dear Land Creed" and the SAP "Code of Honour". Both of these documents are written as religious oaths, containing some broad principles of policing (very similar to those set out in the Police Act), some commitment to a high standard of moral behaviour, and some more overtly political statements:

As a member of the SAP that serves a nation with a Christian National Foundation ...¹⁶

In the fulfilment of our task [we] pledge our sincere devotion to the Republic even if we shall be asked to bring the highest sacrifice, for at thy will to live or perish, Oh! South Africa Dear Land.¹⁷

This type of oath played an important role in developing morale and "esprit de corps" in the force, particularly at a time when the SAP saw themselves as being engaged in a war.

By contrast, the new Code offers a useful standard against which aspects of police conduct can be assessed. It is argued that, given the current levels of distrust of the police, such a mechanism for "accounting for" police conduct against a standard is more imperative than a Code which serves only the need to create police morale. A new ethos for the police, and a new positive morale will only be viable when the new objectives and values of the police force can be determined under the framework of constitutional democracy, with real input from the communities which the police serve.

The involvement of the National Party Government and the South African Police as signatories of the National Peace Accord in September 1991 was of great significance for policing in South Africa. The State, which had consistently portrayed political violence as a "tribal" phenomenon, and "black-on-black" violence as something peculiar to the townships, was acknowledging that it is not merely a referee, but a significant player in the violence. The fact that a large part of the Accord deals with police practice also represented a formal acknowledgement of the police force's tradition of partisanship and brutality. It forced a recognition of the need for wider police accountability.

The Peace Accord introduced a range of structures and methods of operation which the police would have to observe; and which the Nationalist government would have to be seen to enforce. These provisions have severe limits¹⁸ and implementation has been slow and difficult. In relation to policing, the following provisions were included:

- Police Code of Conduct – Recent SAP reform programmes reflect a renewed concern with professionalisation of the force, both in the internal management and in public service delivery. This concern is reflected in the new Code of Conduct in the extent to which it emphasises professionalism. In addition to these elements of a professional code, the new Code also includes a myriad of detailed technical rules, and contains some of the rhetoric of the "new mission" and values of the SAP.
- Police Reporting Officers – The appointment of these legally-trained ombudsmen is intended to create a new complaints procedure to which the public can take their grievances about the police. However, the delay in appointing these officers has led to a serious crisis of legitimacy for such procedures, and renewed calls for a totally independent complaints and investigation mechanism.
- Special Units for investigations into alleged police misconduct – these units would investigate complaints brought to the Police Reporting Officers. Although some such units set up by the SAP in the past have achieved considerable success,¹⁹ the attempts by the SAP to set up these units have thus far lacked public credibility.
- Police Board – this body advises the Minister on matters of police policy. It has no monitoring or control function, and no "teeth" to ensure the implementation of its policy recommendations. It is comprised of police officers from the SAP and self-governing states, and a number of civilians nominated by the signing parties to the Peace Accord.
- Local and Regional Dispute Resolution Committees – these are the local-level bodies which implement and monitor the Peace Accord and gather information on violence. The SAP serve on all committees. However, the establishment of the committees has been an extremely slow and difficult process; and local-level initiatives are often disrupted by national developments.

Although the new mechanisms for control and monitoring of the police were difficult to swallow for the rank-and-file membership of the force, they did reflect the reform agenda of certain sectors of the SAP leadership. For example, a Police Board, police-community liaison forums, and a revamped public complaints procedure were all ideas laid out in the SAP's strategic plan of 1991.²⁰ The fact that the SAP's vision was so influential in constructing the policing sections of the Peace Accord was largely the result of the fact that the Nationalist/SAP negotiators had the experience and expertise in policing which other parties lacked (and had been systematically denied).

It must be borne in mind that the Accord was the process of negotiations, and thus the final document contains loopholes and general statements which are the imperfect

product of compromise. Some of these imperfections have subsequently been addressed at CODESA and through legislation.

Police Conduct Since the Peace Accord

It is still early to expect visibly improved police conduct, and this paper does not attempt a comparative analysis with the pre-Peace Accord process. However, an attempt is made to identify problems and weaknesses in the SAP's adoption of the Code, with a view to improving its implementation and familiarising all members of the force with it.

The process of circulating the code through the SAP took a number of months and it was not accompanied by a thorough educational process. Only this year's intake of student constables has actually studied the code as part of their training curriculum. However, the particularly serious incidents of police misconduct that have been reported in the intervening months suggest that the code is not having a new restraining or moderating effect. However, the role of the Code in making police conduct more visible is clear – cf the public outcry over Dr Gluckman's revelations about deaths in custody.

One of the major problems with the Code was that it was implemented within the secretive organisational tradition of the SAP. Although the Ministry of Law and Order said that any members of the force who refused to sign the code would be fired, there were no reports of any such action. Given the reputation of white members of the SAP for right-wing political sympathies, the claim that every member of the SAP signed the Code without demur was difficult to believe. Anonymous reports of mass refusals to sign the new code have, understandably, not been confirmed by the SAP or the Ministry of Law and Order. If the process of circulating the Code and disciplining those who refused to sign had been more public, perhaps the community could have had greater confidence in the Ministry's claim.

It appears that the SAP leadership "sold" the negotiation process (of which the Peace Accord was a product) to resistant members on the basis that there is "nothing new" in this Code; thus implying that the SAP had retained the moral high ground and given nothing away in the negotiations.

A number of independent, international missions have visited South Africa in the period since the Peace Accord was signed; and their reports make serious allegations of police complicity and misconduct in the violence. Commenting directly on the new Code of Conduct, the International Commission of Jurists' Report describes the new Code as "an excellent document", but adds that "unfortunately there is a vast gulf between police practice and the Code."²¹

Examples of police misconduct in the recent period suggest that the Code of Conduct has not had an immediate impact on the characteristic features of the police culture – racism, brutality, a view of the ANC as "the enemy", and a reliance on methods of maximum force as shaped by the doctrine of counter-revolutionary warfare. If "political discourse, at least in part, provides motivation and justification for organisational police deviance",²² current trends in police deviance indicate that the political discourse "on the ground" in the SAP has not changed substantively since before

1990.²³ This suggests a contradiction between the reformist agendas of certain sections of the police leadership, and their real ability to change the "heart" of the police force.

Furthermore, it is suggested that the **forms** of police misconduct are directly related to the dominant political discourse.

The Impact of the Peace Accord More Generally

The impact of the Police Code of Conduct on police behaviour must, of course, be situated in the context of the impact of the Peace Accord more generally. At the time of writing,²⁴ this is made difficult by the fact that many of the structures proposed in the Peace Accord have not yet been made fully operational.

Although the Peace Accord created a number of new forums in which the police would sit with members of the community, police-community relations continue to be ravaged by the effects of ongoing violence.

Confidence in the Peace Accord as a whole has dropped in the months since September 1991. This contrasts with early expectations of what the Peace Accord, and particularly the mechanisms dealing with the police, would be able to achieve. The judgement in the notorious Trust Feeds case was delivered shortly after the signing of the Accord. At that time, judicial and media condemnation of police misconduct was strengthened by the promise of more effective measures as contained in the Accord. Although the Code of Conduct did not apply retrospectively to the Trust Feeds incident, it created a framework within which police misconduct could be censured.

The distrust of Peace Accord structures has been exacerbated by regular press exposes of security force involvement in the soaring levels of public violence. This has led to a renewed distrust of the security forces, specifically about their willingness to contain or prevent violence.

This distrust, combined with a frustration at the lack of structures to turn to, may well have had the effect of lowering public rates of reporting of police misconduct. Statistical measures of incidents of police misconduct are fatally skewed by the fact that there is currently no independent agency to which members of the public or their legal representatives can take these complaints.

The Amnesty International and International Committee of Jurists reports are useful in that they place police misconduct in the context of institutional and legal procedures which are ineffective, invisible, and in which the public has no confidence. This points to the need for better mechanisms of enforcement if the new police code of conduct if it is to have any effect. The Amnesty report refers to the police special investigation units and process followed in terms of the Peace Accord:

Unfortunately for the community, this slow and barely visible process still had not resulted in arrests or prosecutions arising from murders or other unlawful and

violent acts six months earlier. The lack of concrete results, the fact that the special investigation unit is under the direction of Security Branch members associated with harassment and arbitrary detentions in the past, and the continuing allegations of police involvement in new attacks have prevented the community from developing any faith in the utility of co-operating with the police.²⁵

Changing Police Conduct: Formal codes and informal culture

In one of the most comprehensive programmes for reform of the SAP produced thus far, Brogden argues for a range of "social accountability" strategies in relation to the police, which would match the process of broader social and political reform.²⁶ Of these, some are aimed primarily at changing the police culture, by affecting its composition and altering the constituent elements; and some are primarily legalistic, aimed at narrowing the legal space within which the culture operates, thus constraining its negative features.

The new Code of Conduct is one such legalistic measure, attempting to create an internal set of rules, which, at the same time, subjects the police to public scrutiny and standards. In Brogden's terms, it would represent a combination of an internal rule-making exercise and external rule-making. However, Brogden emphasises that rule-changing alone will not succeed in changing police culture and operation. Perhaps the central weakness of the Peace Accord in relation to police conduct is that, in the absence of other mechanisms to ensure enforcement and transparency, it relies on a rather vague set of guidelines (as contained in the Code) to significantly alter police conduct. One of the fundamental weaknesses of civilian policy makers engaged in debates about police reform in South Africa at present is a lack of understanding of police culture.

If the argument that cop culture plays a determining role in organisational deviance has substance, then attempts at controlling illegal behaviour should be directed at changing the very norms and values that inform policing.²⁷

The power of the informal organisational culture makes enforcement of even an uncontroversial set of rules difficult. But, in the case of the new Code of Conduct, this was further complicated by the fact that the structures of the Peace Accord were widely viewed by police as a "political" intervention into the operations of the police force. This was the basis for some resistance to the Peace Accord from within the Police Force. This reaction was probably only a more extreme form of the resistance which successive Nationalist Ministers of Law and Order have faced when attempting their own interventions into the police force.

The SAP and its operations have always been fundamentally political in nature, therefore it is not the "politicalness" of such interventions that results in resistance – it

is the fact that such interventions are aimed at changing or constraining the dominant police culture. In the post 1990 period, the SAP have turned to a discourse of independence and neutrality which allows them to deflect attempts at establishing proper accountability in the name of creating an "apolitical" police force.

The drive towards an apolitical, impartial and professional police force may well translate into the doctrine of police independence. ... The importance of this doctrine is that it is used to insulate the police from the process of democratic accountability. ... It is argue that the state's attempts to present the SAP as an apolitical, impartial and professional police force may also involve making the police unaccountable to a future government.²⁸

This process is facilitated by a particular understanding of "politics" among the leadership of the SAP. While there may be an acknowledgement that the historical role of the SAP was political, insofar as they had to enforce (overtly political) apartheid laws; there is no understanding of policework as a fundamentally political enterprise, related to the maintenance of social order.

Attempts to introduce a discourse of "democracy" or rights into the police force, and to educate police personnel about the process of political change are often rejected on the ground that these are "party political" matters. There is no understanding of the distinction between a police force which is politically neutral and the impossibility of an "apolitical" police force. There is no conception of a professional who is not "apolitical". This logical flaw will result in a police force which is uneducated about, and unsympathetic to, the process and benefits of genuine democracy.

It is important that the police establishment is not allowed to monopolise the discourse on police professionalisation by virtue of its experience and expertise. The consumers of the police service also have an important role in defining the appropriate form of professionalism – Brogden argues that the desirable social accountability of the police can only be achieved through professionalisation if it is premised on a notion of a co-terminous relationship between the community and professional police, and if it is a bottom-up process which develops from the experience of rank and file policeworkers with the intention of elevating in skill and practice the "best practice" of junior officers.²⁹

This may be facilitated by the formation of some sort of union or professional association within South African police forces. This would ensure that the ordinary membership of the SAP is involved in the process of organisational reform and professionalisation. Given the opportunity of exercising their own rights in relation to their organisational future, members of the force may develop more understanding of the exercise of rights in a democracy.

Conclusion

A range of methods aimed at tackling the problematic police culture have been implied in this paper. However, in conclusion, discussion will be restricted to strategies for enforcement of the new Code of Conduct. It is vital that the Peace Accord should be strengthened in order that the central process of reaching political settlement be facilitated. There will be no substantive reforms of the police institution until true democracy is assured.

It is clear that the new Code of Conduct can be expected to have little impact on police behaviour unless there are visible and credible mechanisms for its enforcement.

At present, the duty of enforcement is delegated to the SAP's existing disciplinary mechanisms. These consist primarily of closed internal disciplinary hearings, which suffer from a major public credibility problem. Civil claims against the police, and criminal cases (such as the Trust Feeds and Alexandra Vigil cases) have recently highlighted the need for police internal processes to be made more visible, and to include a component of civilian review.

Criminal cases against members of the force are supposed to be referred to the Attorney General for prosecution. However,

As in other countries, the Attorney General is unlikely to proceed with a prosecution against the police unless exceptionally high standards of evidence are available because of the probability of failure in the absence thereof. There are grounds for suspecting that the Attorney General is more than merely cautious.³⁰

In addition, Steytler points out that public scrutiny of the police is increasing due to the scrapping of certain pieces of legislation, and to the fact that judges of the Supreme Court have been empowered to conduct inquests where deaths are the result of police action. This scrutiny of the police has also been increased by the establishment of the Standing Commission on Violence and Intimidation, which examines policing of certain incidents of violence and is able to comment on any police action which has been biased or contributed to violence.³¹ The increased scrutiny of police action may itself act as a constraint on police behaviour, or it may encourage ever-more effective means of concealment of cases of police abuses of power.

There is an implicit suggestion in the Accord that breaches of Peace Accord Codes of Conduct could be dealt with through Peace Accord structures. However, this has not happened satisfactorily because of problems with establishment or composition of the relevant bodies. The complaints mechanism created under the Peace Accord has, one year later, not been established; although refinements of the mechanism have been developed through negotiation and at the Police Board. The "Police Reporting Officers" will be civilians employed to receive and manage complaints against the Police. Each regional Reporting Officer will be assisted by a team of detectives, members of the police force, who will investigate such complaints. Importantly, it has been recommended that the unit should be based in separate premises from the local SAP, in order to facilitate the laying of complaints by members of the public.

Despite recent refinements to the proposal, it is likely that the "police reporting officer" system will not be an adequate system in the long-term. Like many of the peace accord structures, this mechanism may limit the potential for long-term police reform by collapsing policing issues into politicised forums which discuss primarily political conflict. There is a danger that the Reporting Officer system may collapse if the Peace Accord is jettisoned by any of the signing parties.

It is desirable that a solid, long-term, independent structure should be set up specifically to deal with complaints against the police. This structure should include civilian participation as a measure to re-establish public confidence in the police. It should allow members of the force as well as members of the public to lay complaints without fear for their safety. The system should be premised on the principle of public scrutiny, and every effort should go into making the system "transparent" to the public at all levels.

If the Code of Conduct is to have an impact on police behaviour, it needs to be supported by credible mechanisms for enforcement and monitoring. These should include:

- a completely independent office where complaints about the police can be lodged. This means that the Police Reporting Officers must be operationalised without delay.
- operationally independent units to investigate complaints about the police. These units should not be housed in existing police buildings,(in some areas, this is already the case. They should report primarily to the Police Reporting Officer, thus building in some degree of civilian review of the investigation procedure.
- the police disciplinary procedures should be made public, and all hearings should be open to the public. The panel for such hearings should always include a civilian component.
- in the long-term interests of securing public confidence in the police, the present police reporting officers and special investigation unit structures should be replaced with an entirely new, predominantly civilian, and absolutely independent complaints and investigation structure. The creation of such a structure would be an appropriate task for a new Police Board or a multi-party interim government committee on Policing.
- the reports and decisions of the Police Reporting Officers should be made public, as should the decisions to censure of members of the force who are found to have transgressed the Code.
- appropriate monitoring structures, either under the auspices of the National Peace Committee, or international monitors during the transition phase, should be created to monitor police conduct and the effectiveness of the complaints and investigation procedures.

It is imperative that public mechanisms, which re-establish public trust in the SAP and improve police-community relations, be instituted. A Code of Conduct alone cannot effect this. It must be supported by a range of other measures and institutions which be able will adapt police practice as necessary. The establishment of an independent body to receive and investigate complaints about the police is the only way of making the Code credible and effective.

We think it is probable that the police could play a significant role in bringing the violence under control if they

are given appropriate orders. We do not, however, think that the police force as at present structured is ever likely to convince the black population that it is capable of enforcing the law firmly, sensitively and with constant and absolute impartiality. The population's experience of the police is the absolute opposite. Why should the police change? The total alienation of ordinary people from the police is one of the gravest questions which the present and any future government of South Africa will face.³²

Appendix: Selection of reported cases of police misconduct since the signing of the Peace Accord in September 1991

September 1991

"On 30 September, Mr Israel Mabote, a local youth leader from Thokoza, was allegedly 'arrested' by 12 policemen in camouflage uniforms, 5 of whom wore Inkatha T-shirts under their uniforms. He was allegedly interrogated and assaulted. They then reportedly took him to an old mine, where he was tied up, a rubber tube was tied around his face, causing him to breathe with difficulty. They then put brake fluid in his anus and kicked and punched him for about three hours. Mr Mabote was released the next day, only after intervention by ANC leadership."³³

October 1991

"Four policemen, including a member of the CID, went to the home of Mr Michael Ngona, and ANC Youth League member and office worker at the local Youth League office, at about 9 am on 19 October. They allegedly questioned him about firearms before putting him into a police van with a tube over his face. Mr Ngona reported that there was another man in the van, however he could not identify him because of the tube over his face. The men were then taken to Zwurberg near Kirkwood, to a deserted area, where the police allegedly assaulted Mr Ngona. The police then shot the other man, killing him, and Mr Ngona managed to escape while they did so. It took Mr Ngona three days to walk home from Kirkwood."³⁴

November 1991

"Despite the scrapping of influx control laws in 1986, about 50 people were arrested (in Pietersburg on 6 November) for not having their identity documents on them. The people were taken to a police station where they were to be charged. When one of the people asked the policeman if the arrests were legal, the station commander replied that they were being warned 'for the last time' and that they would be locked up if they were found without identity documents again. Residents reported that the police usually raided parks and other centres in town where black people congregate and arrest those without ID books."³⁵

December 1991

"Constable Reginald Modisane of Naledi Extension suffered a fractured right leg after he was allegedly beaten up by the Station Commander and two warrant officers at the Meadowlands Police Station Christmas party. Modisane alleged that one of the senior officers handled him roughly and said 'kaffir, wat soek jy hier? Jy het nie geld uitgehaal nie.' Modisane said he was not given time to reply as they allegedly began beating him. Protea police headquarters advised Modisane to lay charges of assault at Moroka police station after he was told that the station commander at Meadowlands had given instruction that no charges should be laid by him."³⁶

January 1992

"Police raided the homes of Mzolisi Wabani, Meshack Merile, Ntsikelelo Khwezi and Khayaletu Mnyngula – all MK members – on 8 January 1992, allegedly searching for weapons. Mr Wabani and Mr Merile were arrested, allegedly interrogated, and released later that day. It was reported that the police forced their way into the homes, damaging the doors and failed to produce a search warrant. On 21 January, police raided the homes of Mr Wabani and Mr Merile again, allegedly 'looking for dagga'."³⁷

February 1992

"(On 23 February) About 15 policemen reportedly went to Lindi Sithole saying that they were looking for her brother, and assaulted Ms Sithole, her mother, her niece and her niece's boyfriend. They were driven to an open field near Nancefield Hostel where the police reportedly smeared a burning substance in all of their eyes and pulled a car inner tube over their faces, and threatened that the police would hand them over to Inkatha members who would 'kill them mercilessly'. The police then took Ms Sithole's mother home and left the other three stranded in the veld."³⁸

March 1992

(On 16 March 1992) "Police from the Crime Information Service picked up Mr James Mndaweni, the president of the National Council of Trade Unions (NACTU) and two other NACTU members at Mr Mndaweni's home. The police held them for 8 hours before releasing them without charge. It was alleged that Mr Mndaweni was questioned on his alleged involvement in the PAC and its armed wing, APLA. It was reported that a police Brigadier later apologised for the arrests, saying that it was incorrect for the three to be taken in."³⁹

April 1992

Mr Zacharia Moruledi, a member of the Dobsonville Civic Association, was brutally assaulted on the night of 9 April by 14 white men who purported to be policemen. The attackers broke down his shack door, demanded AK47 rifles and punched and kicked him. They then took him to the Doornkop Cemetery where they further assaulted him, threatened to kill him and demanded the addresses of other Civic Association members. They later hit him with rifle butts and ordered him into the vehicle, warning him not to look at the number plates. They dumped him about 2km from his home and ordered him to run, but the severity of his assaults made this impossible. They further

assaulted him until he collapsed. The attackers then sped away. Mr Moruledi managed to read a number plate; and recognised one of the assailants as a security policeman from the Protea Police Station in Soweto.⁴⁰

May 1992

The following is an excerpt from an affidavit which details police harassment of a young man in Soweto on 18 May 1992:

"The policemen then took me to the parking lot at Protea Police Station. This parking lot is surrounded by a concrete wall. I was ordered to undress. I undressed. One of the policemen then sprayed me with water from a hosepipe for about one minute. I was very cold. The policeman then handed me two bricks and told me to hold them with my hands outstretched. I did this, but could not hold on for long as I felt weak. One of the policemen went to a motor vehicle and returned with a spray canister. I am not sure of the substance contained in the canister. He ordered me to open my mouth. I refused to do this and he then sprayed my face with the substance from the canister, some of which hit my right eye and caused severe pain. One of the policemen then told me to dress. I did so. ... I was then taken back to the room I was taken to when I first arrived at the police station. The policeman with the cap placed a plug in the wall and handed me two bare wires which were attached to the plug and ordered me to hold them. I held a piece of wire in each hand. The policeman then turned on the switch and I received an electric shock. All of the policemen laughed and the policeman with the cap then turned off the switch."⁴¹

Notes:

¹ Simpson, Mokwena and Segal 1991:22

² Brogden 1991:13

³ Steytler 1990:128

⁴ Shearing (1992:39) suggests that the police use rules as guides for assessing the appropriateness of police actions, rather than as a reliable basis for action itself.

⁵ Steytler 1990:124

⁶ Brogden 1991:14-15

⁷ Brogden 1991:14 (emphasis added)

⁸ See Rauch 1992 on Basic Training in the SAP

⁹ The new Code of Conduct was introduced into the Police Ethics syllabus at the beginning of 1992.

¹⁰ See Botma S (1991) Police Ethics

¹¹ du Plessis (1988) argues that Calvinism per se cannot be seen as the Spiritual source of the apartheid system; rather, Calvinist theory has been manipulated to fulfil ideological functions.

¹² SAP College for Advanced Training p.54

¹³ du Plessis 1988:37

¹⁴ du Plessis 1988:38

¹⁵ See also British television documentary "Children of God"

¹⁶ SAP Code of Honour

¹⁷ South Africa Dear Land Creed

¹⁸ See Marais & Rauch 1991

¹⁹ cf the unit commanded by Captain Dutton which investigated the Trust Feeds incident

²⁰ See Marais and Rauch (1991)

²¹ International Commission of Jurists 1992:12

²² Steytler 1990:110

²³ See Fernandez 1991, for discussion of police torture of non-political suspects in custody

²⁴ June 1992

²⁵ Amnesty International 1992:81

²⁶ Brogden, M. 1991 "Policing South Africa: An agenda for incremental change", Institute of Criminology, UCT

²⁷ Steytler 1990:129

²⁸ Steytler 1991:7-9

²⁹ Brogden 1991:24

³⁰ Haysom 1989:148

³¹ Steytler 1991:7

³² International Commission of Jurists 1992:12

³³ HRC ARR10/91:9 taken from the following newspaper reports: Sowetan 8/10/91, Saturday Star 13/10/91, Sunday Star 27/10/91

³⁴ HRC ARR/11/91:35

³⁵ HRC ARR/11/91:35

³⁶ HRC ARR12/91:14 As reported in City Press 22/12/91

³⁷ HRC ARR 1/92 reported in City Press 1/3/92

³⁸ HRC ARR3/92:26 Reported in Business day & Citizen 18/3/92

³⁹ HRC ARR3/92:26 Reported in Business Day & Citizen 18/3/92

⁴⁰ HRC ARR/4/92:39 Reported in City Press 12/4/92

⁴¹ Affidavit of Bongane Alfred Kunene, 3/6/92

Bibliography

Amnesty International (1992) *South Africa: State of Fear*, AI Publications, London.

Botma S (1991) *Police Ethics* SAP Training Manual, Pretoria

Brogden M (1991) *Policing South Africa: An Agenda for Incremental Change* Institute of Criminology, University of Cape Town.

du Plessis L M (1988) "Calvin, Calvinism and Present-Day South Africa" in *Essays on Law and Practice in South Africa* (ed) H Corder, Juta, Cape Town.

Fernandez L (1991) *Police Abuses of Non-Political Criminal Suspects: A Survey of Practices in the Cape Peninsula Area* UCT Institute of Criminology, Cape Town.

Haysom N (1989) "Policing the Police: A Comparative Survey of Police Control Mechanisms in the United States, South Africa and the United Kingdom" in *Acta Juridica*, Juta, Cape Town.

Human Rights Committee (1991 & 1992) *Area Repression Reports*, HRC, Johannesburg.

International Commission of Jurists (1992) *Agenda for Peace: An Independent Survey of the Violence in South Africa*.

Marais E & Rauch J (1991) "Policing the Accord" in *Work in Progress* No. 78 Nov/Dec 1991.

Rauch J (1991) *The Police and the Violence in South Africa*. Paper presented to the Annual Meeting of the American Society of Criminology, San Francisco, November.

Rauch J (1992) *South African Police Basic Training: A preliminary assessment*, Centre for the Study of Violence and Reconciliation, Seminar No. 3, Johannesburg.

Shearing C (1992) *Reflections on Police Management Practices*, Royal Canadian Mounted Police External Review Committee, Ontario, Canada.

Simpson G, Mokwena S and Segal L (1991) *Political Violence in 1990: The Year in Perspective*, In Robertson, M. & Rycroft, A. (Eds), *Human Rights Yearbook 1992* Vol. 2, Cape Town: Oxford University Press.

South African Police (1991) *Annual Report of the Commissioner of the South African Police 1990*, Government Printer, Pretoria.

South African Police (1992) *Annual Report of the Commissioner of the South African Police 1991*, Government Printer, Pretoria.

South African Police (n.d.) *Police Ethics* Advanced College, Paarl.

Steytler N (1990) "Policing Political Opponents: Death Squads and Cop Culture" in *Towards Justice: Crime and State Control in South Africa* (eds) D Hansson and D Van Zyl Smit, OUP, Cape Town.

Steytler N (1991) *State Strategies and the Reform of the SAP* Paper at Law and Society Association and the Research Committee on Sociology of Law on 29 June at the University of Amsterdam.

© Centre for the Study of Violence and Reconciliation