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IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE
SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID

Note by the Secretary-General

The information reproduced in the annex to this note relevant to the preparation of the list of individuals, organizations, institutions and representatives of States alleged to be responsible for crimes enumerated in article II of the International Convention on the Suppression and Punishment of the Crime of Apartheid has been received from the Special Committee against Apartheid in accordance with resolution 7 (XXXIV) of the Commission on Human Rights.

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20 February 1979

Sir,

The Special Committee against Apartheid has been gravely concerned over the continuing crimes of the apartheid régime of South Africa and its officials, despite the adoption of the International Convention on the Suppression and Punishment of the Crime of Apartheid by the General Assembly on 30 November 1973 and the coming into force of the Convention on 18 July 1976.

The brutality of the apartheid régime has, infact, escalated since the liberation of Angola and Mozambique and the Soweto massacre of 18 June 1976, as it attempted to stem the advance of the struggle of the oppressed people for liberation.

The Special Committee hopes that the Commission on Human Rights will soon prepare a list of individuals, organizations, institutions and representatives of States who are guilty of the crime of apartheid in terms of the International Convention and take appropriate action to secure the punishment of criminals.

In accordance with the International Convention and the requests of the Commission, the Special Committee has undertaken, with the assistance of an expert consultant, a study of the torture and murder of detainees in South Africa in recent years in order to assist the Commission in the discharge of its responsibilities under the International Convention. I have the honour to transmit herewith, for the attention of the Commission, a report on some cases, providing particulars on the persons - officers of the Security Police and magistrates - responsible for the crimes.

In this connexion, I wish to emphasize that the policy of apartheid has been recognized as a crime against humanity and all those who are concerned in the enforcement and administration of the laws of apartheid and the application of that policy are guilty of the crime of apartheid.

H. E. Mr. Yvon Beaulne
Chairman
Commission on Human Rights
Palais des Nations
Geneva

UNITED NATIONS



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H. E. Mr. Yvon Beaulne

20 February 1979

While the present report only draws attention to the crimes of the Security Police and magistrates, criminal responsibility under the International Convention extends equally to the Ministers of Police and Justice, the Commissioners of Police, the Heads of Security Police, as well as judicial officers.

The Special Committee trusts that the Commission on Human Rights will study the attached report and take urgent action in accordance with the International Convention.

Accept, Sir, the assurances of my highest consideration.

A handwritten signature in dark ink, appearing to read 'Leslie O. Harriman'.

Leslie O. Harriman
Chairman

Special Committee against Apartheid

A N N E X

SOME CASES OF MURDER, TORTURE AND DEPRIVATION OF LIBERTY

The accused and their victims

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CASE NO. A

THE ACCUSED: NATAL INLAND DIVISION, SECURITY POLICE, PIETERMARITZBURG,
AND PORT NATAL DIVISION, SECURITY POLICE, DURBAN

All the persons named as the accused in Cases Nos. B and C

PARTICULARS:

<u>CHARGE</u>	<u>DATE</u>	<u>VICTIM</u>	<u>WITNESS</u>
Torture	30.11.1975 to ?	Michael Gumede	The victim
Torture	30.11.1975 to ?	Anton Fano Xaba	The victim
Torture	5.12.1975	William Fano Khanyile	The victim
Torture	5.12.1975 to ?	Russell Maphanga	The victim
Torture	5.12.1975 to ?	Harold Bekisisa Nxasana	The victim
Torture	December 1975 to ?	Mdelwa Frans Kunene	The victim
Torture	March 1976 ro April 1976	Cleophas Melayibone Ndhlovu	The victim
Torture	24.6.1977 to 7.10.1977	Sihle Khumalo	The victim
Torture	8.12.1977 to ?	Ernest Sabelo Ngobese	The victim

MICHAEL GUMEDE

He was a witness for the state in the Pietermaritzburg trial. He was arrested on 30 November 1975 by two white and one black policemen.

In evidence on 4 October 1976, he claimed that he was tortured by being assaulted by the white policemen, by having gravel put into the toes of his shoes and thereafter being made to stand in his shoes on tiptoe, and by having a brick tied to his testicles with a piece of string and suspended. He was unable to identify any of the torturers.

ANTON FANO XABA

He was an accused in the Pietermaritzburg trial.

He was arrested on 30 November 1975 and taken to the Security Police offices in Loop Street, Pietermaritzburg.

He was punched and kicked while Colonel J. G. Dreyer looked on. Several policemen picked him up and carried him to a window. They threatened to throw him out saying he ought to know how Timol died. He was bleeding from his nose. Gravel was put into his shoes and he was made to do exercises. His head was banged against a wall. This treatment **went on for** forty hours.

He was unable to identify the other policemen.

WILLIAM FANO KHANYILE (Age 41)

He was a member of the South African Congress of Trade Unions and the African National Congress. He had been detained in 1963, sentenced to eight years imprisonment in 1964, which he served on Robben Island. On release in 1972 he was banned and banished to New Hanover, near Pietermaritzburg for three years.

He was arrested in Durban on 5 December 1975.

He was charged with nine others in the Pietermaritzburg trial which commenced on 15 July 1976. He was the only one acquitted at the end of the trial on 15 July 1977.

On the day of his arrest he was taken to the offices of the Security Police, Fisher Street, Durban. The policemen that he recognized who took part in torturing him included:

Colonel Frans Steenkamp

Lieutenant Taylor

Lieutenant McDuling

Warrant Officer van Der Westhuizen

Senior Sergeant Mthembu

Sergeant Mhlongo

Sergeant Dlamini

There were others whom he could not identify.

He was made to strip until he was naked. He was then compelled to assume a half squatting position with his hands extended in front and thereupon

he was assaulted by being repeatedly struck with fists and batons, and when he fell, by being kicked with shod feet and forced to stand up again. After that a sheet was wrapped around his head and neck and twisted until he was partially suffocated and in severe pain. This caused him to lose consciousness. When he recovered he found that he had urinated and defecated. They then made him clear up the mess and remove the excrement. They threatened to kill him unless he told them everything. He was once again severely assaulted with fists on his face. He cannot remember how long this went on, but after a while the torture stopped.

They decided to take him down to the third floor of the same building and there the torture was resumed. Once again he was **severely assaulted** with fists on his head and face and at some stage his ear drum was permanently injured. Once again a sheet was wrapped around his head and neck and twisted. Again he was partially suffocated and in very severe pain. This process was repeated a number of times over a continuous period on the day and night of his arrest for over thirteen hours.

He was not allowed a change of clothing for three weeks. Virtually every day he was shown statements allegedly made by other detainees and he was threatened that unless he also talked he will be taken back to "night interrogation". This was a reference to the severe torture on the first night of his detention. During the first week of May 1976, while he was still being interrogated, Colonel Steenkamp, smelling of liquor, told him that the police did not want to charge him but wanted him to give evidence against the "big fish".

Later he agreed to make a statement and to put into his statement everything that they suggested. For saying this he was again threatened

and this time they also threatened to arrest and detain his wife, Eleanor. But she escaped and is now in London.

The punishment that he had taken had loosened some of his teeth and he was in very severe pain with a toothache for a period of two weeks before he was taken to see a doctor. When he saw the doctor he did not complain about the assaults. He merely mentioned his tooth and the fact that his ear drum had been injured. The doctor asked no questions.

After the trial ended on 15 July 1977, a number of witnesses in the trial and others were arrested and detained. He was strongly advised to leave the country. He did so successfully and is now in Lusaka.

RUSSELL MAPHANGA

He was a defence witness in the Pietermaritzburg trial. He had been previously arrested and detained. He had served a term of imprisonment at Robben Island.

He was arrested on 5 December 1975 and taken to Security Police offices in Fisher Street, Durban.

He was made to remove his shoes, trousers and jacket, and told to assume a half-squatting position with his back and head against a wall, with his arms, from his elbows upwards, outstretched with the back of his hands against the wall. While in this position, he was interrogated and punched repeatedly in the stomach. He collapsed twice.

Colonel Steenkamp told him that he was in charge of all the police who had interrogated him and that he would allow his men to continue hitting him if he did not tell the truth. He was kept in a solitary confinement cell for six months before being released.

He was unable to identify the other policemen.

HAROLD BEKISISA NXASANA

Nxasana was a Durban trade unionist. He was arrested on 5 December 1975 and detained. He gave evidence in the Pietermaritzburg trial and was the principal witness for the state. After he had given his evidence, he was still kept in detention. Subsequently, when his wife was allowed to visit him, he disclosed that he had been tortured. He was then called by the defence to give evidence of the torture.

He said that he had been severely tortured for a considerable period on 5 December 1975 by a number of security policemen. Although his head was covered with a hood he was able to identify:

Captain Daniel Wessels

Lieutenant C. P. McFuling

Warrant Officer Louis Botha

At the offices of the Security Police, Fisher Street, Durban, he was gagged by the insertion of a piece of cloth into his mouth. A sheet was wrapped around his neck and lower face and two men pulled the ends across his neck from either side like "a tug of war", causing partial suffocation and intense pain. Later he was repeatedly struck on the side of the head, kidneys, stomach and solar plexis with a hard spherical object that looked like a shot putt rolled in a cloth "so that there will be no scratches on my face for the doctor or magistrate to see". When he fell on to the floor, they jumped on his back. While he was being tortured, "they covered my face with a hood so that I could not see who was assaulting me".

MDELWA FRANS KUNENE (Age 31)

Kunene was arrested in December 1975. He was detained and produced as a state witness in the trial of the "Pietermaritzburg Ten" between 15 July 1976 and 15 July 1977. He gave evidence on 8 October 1976 and 24 February 1977. After he gave evidence of torture and repudiated his written statement of 13 December 1975, which he made while he was held incommunicado (as he still was) in police custody, he was declared a hostile witness and subsequently prosecuted for perjury. The policemen he accused of torturing him were:

Warrant Officer Gerentholtz

Sergeant Basil Ndimande

Sergeant Dabula Sifumba

He did not know the identities of the other security policemen.

During December 1975, he was threatened that he would never see his parents again. When he denied that he had been recruiting persons for military training on behalf of John Nene, he was severely assaulted. Small pebbles were put into the toes of his shoes, and he was then made to put on those shoes and adopt a half squatting position with his knees and his chin against a wall and with his buttocks and heels raised. When he became exhausted and unable to remain in this position, he was repeatedly struck with a sjambok which left weals on his body. Thereafter, he was made to place his hands on a table and was repeatedly struck on his fingers and fingernails with the butt of the sjambok until they bled. He eventually lost all his fingernails.

CLEOPAS MELAYIBONE NDHLOVU (Age 42)

Ndhlovu was abducted, together with Joseph Nduli, from Hlangano, in Swaziland, near the border with Natal, on 20 March 1976. After he was abducted he was taken to a police camp at Kosi Bay in Northern Natal. From there he was taken through a forest to a house or hut.

He was one of the accused convicted in the Pietermaritzburg trial.

He was tortured by a number of policemen, including:

Colonel J. G. Dreyer

Major Jacobus Johannus de Swardt

Lieutenant A. R. Taylor

He was tortured on two separate occasions. The first occasion was 29, 30 and 31 March. On the **morning** of 29 March, he was blind-folded and led through the forest to the house or hut. A rope was attached to his neck while he remained blind-folded, and affixed to a rafter or similar object above his head. In this position he was repeatedly struck with a stick on the head, knees and feet. His nipples and ears were repeatedly twisted. He was struck with fists on his face and stomach, and threatened that he would be thrown into the sea from a boat.

That night, he was taken and tied to a tree, still blind-folded. His legs were clamped in leg-irons. He was left exposed in the open throughout the night of 29/30 March. Early on 31 March 1976, he was dragged by the rope, still attached to his neck, to the sea and compelled to wash himself. He was threatened that he would be taken out to sea and be drowned. Throughout this period, he remained blind-folded.

On the second occasion, a few days later, in the same hut, while still blind-folded, he was subjected to electrical shocks on two occasions. A machine or device known as "the cat", which was said to have been obtained from the United States of America, was employed.

SIHLE KHUMALO (Age 23)

He lived at Lamontville township, Durban. He was a law student at the Fort Hare University from which he was expelled, without reasons, in 1976. He was arrested on 24 June 1977 on a public road shortly after he left Pietermaritzburg on his way to Durban. He was subjected to torture on numerous occasions up to the time of his release on 7 October 1977.

The policemen he was able to identify are:

Colonel J. G. Dreyer, Officer Commanding, Natal Inland Division,
Security Police

Colonel Frans Steenkamp, Officer Commanding, Port Natal Division,
Security Police

Captain Stadler (now Colonel Stadler), Officer Commanding, Port Natal,
Security Police

Captain Ells

Lieutenant Taylor

There were many others that he was unable to identify.

On the first occasion during June 1977, at Pietermaritzburg, he was severely assaulted with fists and shod feet. He was made to strip naked, was handcuffed, leg irons were put on his feet, and in that condition he was driven by landrover to a place called Jozini, near the Pongola River, some 500 kilometres away.

After they had arrived there he was again severely assaulted with fists and shod feet, while still naked, over all parts of his body. He lost consciousness on several occasions. He was assaulted thereafter near Jozini on

the banks of the Pongola River. He was still naked, handcuffed, and in leg irons. He was put inside a large sack and the open end was tied and fastened. He was then ducked in the river repeatedly at intervals over a period of three days. While this was being done he was told that he was going to die and that no one would know about it. (Reference was to the fact that only the police were aware that he was in detention).

Thereafter, he was taken to a zinc and wood hut in the forest at/or near Jozini. It was in a remote place and surrounded by armed soldiers. As he arrived there he was shown one man with a bleeding and swollen face. He was shown another man lying on the verandah of the hut covered with a blood-soaked blanket. He was told that in a few minutes he would be like that. He was then forced to sit naked on a chair, handcuffed hands behind him, legs in leg irons, fastened to the legs of the chair. He was then assaulted with fists and batons all over his body, particularly on his testicles, until he lost consciousness. His face was swollen and his jaws were clamped. On regaining consciousness he was given two injections on his thighs by the police. Assaults as before were resumed until he lost consciousness again. When he regained consciousness he found himself on the floor covered by a blanket.

He was asked if he had known what had happened to Joseph Mdluli. He was then told that Mdluli had been a lucky man but in his case no one would know what had happened to him as no one knew that he was in custody.

While still in that hut naked and handcuffed and in leg irons a towel was put around his head and neck and twisted until he lost consciousness. When he recovered he found himself lying on the floor. He was then repeatedly

and very severely assaulted with fists, batons, and shod feet all over his naked body until he was unable to use his legs as they had gone numb.

When he was crawling to the toilet, they sat astride his back saying that they were riding a horse and whenever he fell they beat him as above. He was specifically, repeatedly and deliberately kicked with shod feet on his testicles.

During July, still in the same hut, still naked, handcuffed, and in leg irons, a rope was fastened to his leg irons and hoisted through a pulley in the ceiling until he was suspended, head down, clear of the floor. He was then told that this was "a taste of white power". While in that position he was interrogated for a considerable period of time. They repeatedly told him that they would make him "shit" if he did not answer all their questions satisfactorily.

He was then taken to Paulpietersburg, where on 11 July, he was told that his parents would not be allowed to know his whereabouts or to visit him and that only they themselves and the magistrate, if they wanted him to, would know where he was. He was still naked and in handcuffs but his leg irons had been removed. They told him that he would not be allowed any clothes as he might commit suicide which they knew he would do anyway whether he liked it or not.

He was denied any food, other than one plate of soft mealie-meal porridge without salt or sugar once a day. They told him that if he ate it he would not starve and it would take a long time for him to die. They had tried it before and no one had died.

His whole body was in pain, especially his stomach and head. He was taken to see a doctor whom he cannot identify. The doctor examined his wounds, gave him injections and tablets and a tube of ointment rub on the wounds. Some days later he was taken to another doctor who at first said he would not treat a "terrorist". Later he gave him injections and tablets which made him feel very drowsy.

Thereafter he was taken to a police station which he is unable to identify and on 27 July, after permitting him a pair of short trousers and making him sit on the floor, he was confronted by Joe Ngidi. They told him that the said Ngidi would tell the truth to his face. Thereupon he was repeatedly assaulted with fists and batons and shod feet on all parts of his body.

Early in October 1977 he was taken to Pretoria. At Pretoria he was again repeatedly assaulted with fists and batons and shod feet, on all parts of his body.

After four days of such assaults, he was taken back to Paulpietersburg.

He was released on 7 October. Before being released, he was warned that he should tell people that he had been well-treated in detention, otherwise he would be arrested and detained again for an indefinite period.

He was making his way back home, but before arriving there he learnt that the **Security** Police had been to his home and had detained his mother and sister. He did not go home but fled the country.

He still does not know what has happened to his mother and sister.

He still carries scars on his left shoulder and both ankles. His **testicles** gave him pain for some time, and he had difficulty in urinating.

ERNEST SABELO NGOBESE

The evidence in this case has been obtained from the father of the detainee, Aaron Ngobese. Ernest was arrested and detained on 8 December 1977. It is not known where he was detained.

On 19 May 1978, security policeman Botha called on Aaron and told him that his son was at the Addington Hospital, Durban. He took him to see his son.

The Addington Hospital only admits white and Coloured patients. It does not admit black Africans for whom there are other hospitals.

Aaron Ngobese found that his son had been admitted and registered at the hospital under the name of Stephen Dlamini.

(Stephen Dlamini is a well-known leader of the liberation movement and President of the South African Congress of Trade Unions. He had been detained many times and served a long sentence on Robben Island. After his release from Robben Island he had been banned. He eventually escaped from the country.)

Ernest told his father that he had been assaulted and tortured by security policemen under the command of Lieutenant James Taylor. Botha, who had accompanied Aaron, and who was present during the visit, immediately stopped the discussion, warned Ernest not to talk about policemen, and placed a tape recorder between father and son. Ernest could not give his father any further information.

The following injuries on Ernest were noted by Aaron:

1. A visible swelling of the face, below the eyes, about the mouth and under the chin;

2. An obvious injury to the neck as a result of which Ernest experienced great pain in attempting to move his head;
3. An injury to the throat indicated by the severe pain experienced by Ernest, together with considerable difficulty, when he tried to speak. In any event, he spoke in a faint, barely audible voice.

CASE NO. B

THE ACCUSED: PORT NATAL DIVISION, SECURITY POLICE, DURBAN

COLONEL STADLER, OFFICER COMMANDING

COLONEL FRANS M. A. STEENKAMP, FORMER O/C

LIEUTENANT-COLONEL I. DOETZEE

MAJOR BAKER

CAPTAIN C. J. DREYER

CAPTAIN P. L. DU TOIT

CAPTAIN DANIEL WESSELS

CAPTAIN A. WOOD

CAPTAIN DAVID FREDERICK VAN ZYL

LIEUTENANT C. P. McDULING

LIEUTENANT ANDREW RUSSELL CAVILL TAYLOR

(ALIASES: ARTHUR TAYLOR
JAMES TAYLOR)

*WARRANT OFFICER LOUIS BOTHA

WARRANT OFFICER VAN DYK

WARRANT OFFICER VORSTER

WARRANT OFFICER VAN DER WESTHUIZEN

SENIOR SERGEANT MTHEMBU

SERGEANT DLAMINI

SERGEANT MANDLAKAYISE PATRICK MAKHANYA

SERGEANT MHLONGO

SERGEANT ZABULON NGOBESE

PARICULARS:

CHARGE	DATE	VICTIM	WITNESS
Torture	September 1974 to February 1975	Brigitte Mabandla	The victim
Murder	18.3.1976 to 19.3.1976	Joseph Masobiya Mdluli	1) Trial record - 4 Policemen Accused 2) Trial record - GWALA and others Pietermaritzburg 3) Dr. B. J. Straaten
Murder	2.8.1977 to 3.8.1977	Hoosen Mia Haffejee	1) Inquest record 2) Mr. D. H. Biggs 3) Mr. Theo B. Lorentz
Murder	9.7.1977 to 13.8.1977	Bayempini Mzizi	Inquest record

* Also appears as an accused in Case No.3

BRIGITTE MABANDLA

She was employed at a youth organization by the South African Institute of Race Relations, Durban.

She was arrested in September 1974, following a rally on the tenth anniversary of FRELIMO at Curries Fountain. Her husband, Lindilwe Mabandla, had been arrested two days earlier.

She was kept in detention for a period of five months and three weeks. She had a three-month old baby and throughout this period she was not allowed to see her baby. She was tortured on a number of occasions. She is unable to identify most of her torturers but she give the following names:

Major Baker

Sergeant Taylor

Sergeant 'Spyker' Van Wyk

Woman Warder Vorster

She was seen by a doctor 51 days after the major tortures.

She was visited by a magistrate six weeks after recovering from her injuries.

At first she was detained at the Sydenham Police Station, Durban. Here she was assaulted by the late Sergeant L. Nkosi by being struck repeatedly with the open hand and with fists.

Thereafter, she was removed to Security Police headquarters, Kompol Building, Pretoria.

On the first day of her arrival there, she was compelled to stand on one spot for the whole day, from 8 a.m. onwards, she was denied any breakfast, or any food and water. She was repeatedly assaulted by being struck with open hands and with fists, and by being kicked on all parts of her body. The burning end of a cigarette was applied to various parts of her face. Statements allegedly made by others were read out to her and she was told to disclose the names of the "big fish" that they wanted. She was shown a bicycle standing at the head of a long stairway and told that she would die by being forced to ride the said bicycle down the stairs.

On the second day, she was put into a small room with thick windows and told that the good time was over and that she was now going 'to have it'. She was compelled to stand on an up-ended brick with toes and heels over-hanging and made to hold another brick with both hands extended in front. When she was eventually unable to continue and fell, she was severely assaulted by being struck with fists and being kicked with shod feet all over her body and compelled to resume her position on the brick. When the brick fell flat and she also fell, she was assaulted even more brutally. The blows this time included karate chops and the burning end of a cigarette on various parts of her face. At this stage, she was bleeding. This treatment continued for a period of about seven hours until she was faint and dizzy and no longer capable of standing at all. At this stage she was told that she would be killed like the others.

On the following day, at the Pretoria Central Prison, she was told that she was dirty and stinking. But she was not allowed to wash her clothes although she was caked in blood and was bleeding from the vagina (not connected with menstruation). She was assaulted once again despite her weak and injured condition, by being struck with open hands and with fists.

On the sixth day, and daily for a period of two weeks thereafter, she was assaulted by being struck with fists and kicked with shod feet on all parts of her body and with the burning end of a cigarette applied to her face.

Thereafter, about the end of December 1974 or early January 1975, she was very severely assaulted all over her body by being struck with open hands and fists and by being kicked with shod feet and the end of a burning cigarette on her face. Major Baker participated in these assaults.

At the Pretoria Central Prison, she was kept in a small solitary confinement cell and denied any and all forms of physical exercise until the visit of the magistrate to whom she complained. Thereafter, she was compelled to perform exercises with a female warder on her back. On each occasion when she refused to exercise with a female warder on her back, she was deprived of food for two days.

She was released early in March 1975.

JOSEPH MASOBIYA MDLULI (Age 50)

Joseph Masobiya Mdluli was arrested about 11 p.m. on Thursday, 18 March 1976, under the Criminal Procedures Act. He died some time on the following day, Friday. The post mortem was done on 20 March 1976 and 22 March 1976. An inquest, promised by the fixing of a date, was repeatedly postponed. On 13 May 1976, the African National Congress released photographs of Mdluli's corpse at a press conference in London. On 11 June 1976, the Minister of Justice, J. Kruger, announced in the South African Parliament that four policemen were to be charged with culpable homicide arising from the death of Mdluli. The trial commenced on 25 October 1976 and ended on 28 October 1976.

Police version (agreed between the State and the Defence)

Lieutenant Colonel Frans M. A. Steenkamp, Commanding Officer of the Security Police in Durban, authorized the arrest.

Major I. Coetzee and Captain A. Wood and others effected the arrest about 10 p.m. on 18 March 1976, and brought Mdluli to Security Police headquarters at about 11.45 p.m. on 18 March 1976. At 2.15 a.m. on 19 March 1976, when they reported for duty, he was left with Sergeant Mandlakayise Patrick Makhanya and Sergeant Zabulon Ngobese, until 5.30 a.m. when Captain David Frederick Van Zyl, Lieutenant Andrew Russel Cavill Taylor and Warrant Officer Vorster arrived and the interrogation commenced. It continued until 9.30 a.m. Mdluli was apparently upset by damaging admissions he had made concerning the name of a taxi-driver who was later arrested. He suddenly jumped up and moved towards a window in what appeared to be an attempt to escape. Makhanya grabbed Mdluli and they stumbled and Mdluli fell over a table. There was a fierce struggle in which Van Zyl, Taylor, Makhanya and Ngobese took part, to subdue him. He

appeared to be a very strong man. After the struggle was over, Mdluli calmed down. He made no complaints and was suffering from no visible injuries. The incident was reported to Major Coetzee who satisfied himself that he was not injured.

Interrogation resumed at 1 p.m. until 3 p.m. He was allowed to rest until 7 p.m. when interrogation was again resumed. Interrogation stopped at 8.30 p.m. Van Zyl and Taylor left. Mdluli was sitting talking with several policemen.

Warrant Officer Van Dyk left the room and was walking down the passage when he heard someone falling. He turned to see Mdluli suddenly got up from his chair, held his head with both hands, complained that he felt dizzy, staggered and fell with his chest or neck hitting the back of the chair on which Van Dyk had been sitting. The chair toppled over and he fell against the doorframe and then on to the floor. All attempts at resuscitating him by Van Dyk and Captain C. J. Dreyer failed. He died about 9.30 p.m.

Medical evidence

Medical evidence was given by Dr. B. J. Van Straaten, Chief State Pathologist, Professor I. Gordon, Head of the Department of Forensic Medicine at Natal University and Professor H. A. Shapiro, Professor of Forensic Medicine at the University of South Africa.

Dr. B. J. Van Straaten examined the body which was lying on the floor under a blanket at about midnight on 19 March 1976. He had been called at 11 p.m. He was told that the detainee had died about 9.45 p.m. When he examined the body rigor mortis had set in completely. His immediate reaction was that

he could have been dead for anything up to twelve hours but he did not take the body temperature as the cream of police society were telling him that the man had collapsed and died in their presence. A police officer demonstrated to him how Mdluli had stood up, collapsed and died. No mention was made to him of the dead man falling on the back of a chair. When he conducted the post mortem the following morning, his immediate reaction was that there was a contusion on Mdluli's neck consistent with manual strangulation.

There were 5cm wide bruises to the neck caused by at least two applications of force. The main injury to the area of the Adams Apple would have caused death immediately. A second bruise under the jaw would not normally have caused death on its own, although it could have done so. There was no indication on the skin surface of finger marks, but this did not rule out that fingers could have been used.

Injuries were too spread out to be accounted for by a single fall on to the back of the chair and were caused by more than one application of force.

There were abrasions to both cheek bone areas, left elbow, right upper thigh, left calf, both shins, ankles and right foot, and behind the left shoulder. There was extensive, deep bruising of the forehead, temporal area, back of the head, scalp, abdominal muscles and pelvis area. The neck cartilage was fractured. There was deep bruising near the left lower rib cage and three ribs were fractured. The skull was intact but the brain was extremely congested with small haemorrhages, and the fluid inside the brain was blood-stained. The lungs were blood-congested and water-logged.

The bruising of the abdomen could have been caused during the struggle, but the third rib could not have been fractured by falling over a table.

Mdluli could have died at 9 p.m. on 19 March 1976, but his first impression was that Mdluli had been dead for a longer time than said. After consulting Professor Gordon, he revised his opinion that death had been caused by strangulation, to death having been caused by application of force to the neck.

Professor Gordon found that the fatal injury and attendant bruising on Mdluli's neck were caused by the application of blunt force. A cartilage in the neck was fractured in a similar way to a case cited as being caused in unarmed combat. This could include a kick, punch or karate chop to the throat, but throttling could not be excluded. In the abstract he found it difficult to say that the injury to the neck could not have been caused by falling on to the back of a chair. He had tried getting his neck into the right position on to the back of a chair and could account for the major injury in the thyroid area in this way. It was harder to account for the other two neck bruises. One could fracture the neck cartilage if one fell in a particular way, but he had difficulty applying this theory in this case. He confirmed all the bruises described by Dr. Van Straaten. It seemed that the application of blunt force took place at separate times and not in continuity. At Dr. Van Straaten's request he had examined the body on 22 March, and they had agreed to change the description of the cause of death from strangulation to the application of force to the neck as it was a more accurate description.

Rigor mortis in most cases was fully developed in three to six hours and disappeared in about thirty-six hours. Mdluli's death could have taken place at any time between 9.30 a.m. and 9.30 p.m. on 19 March 1976. Most of Mdluli's injuries could have been caused in the struggle described by members of the Security Branch.

Professor H. A. Shapiro had even greater reservations than Professor Gordon about the fall on to the chair.

The Court

The judge, Mr. Justice James, Judge President of the Natal Provincial Division of the Supreme Court, was unable to resolve the conflict between the medical evidence and the police evidence. According to the former, Mdluli died almost immediately after receiving the fatal injury to the neck. That injury was not sustained in the fall on to the back of the chair. According to the police evidence he did not receive any other injuries whatsoever during the fierce struggle at 9.30 a.m. If Mdluli had died at that time, it meant that all the policemen at Security Police headquarters had entered into an elaborate conspiracy to conceal the death until the evening. The judge did not accept that and therefore he concluded that Mdluli did not die that morning. On the evidence, he was unable to find how and when Mdluli died and acquitted the accused policemen.

Some remarks

1. (a) Dr. Van Straaten's failure to take the body temperature and thus establish the time of death is a failure of crucial importance.

(b) His initial finding was that death was caused by manual strangulation. The implications of such a finding would have been shattering to the police.
2. (a) Dr. Gordon could not have afforded the Security Police greater protection if he had intended to do so.

(b) The Mdluli family had appointed a private pathologist, Dr. M. P. Chetty, to attend the post mortem.

According to Dr. Van Straaten, Dr. I. Gordon, the Chief Pathologist, "made it clear to Dr. Chetty that he had the right to exclude him from the examination. But he agreed to allow him to be present provided he spoke to no one about what took place."

Dr. Chetty was thus prevented from reporting his findings to the instructing lawyers or the Mdluli family.

When approached, Professor Gordon told the Rand Daily Mail (7 April 1976) through his Secretary, that he had no comment to make.

Later it was revealed that Dr. M. P. Chetty was not present when the post mortem was conducted (thus he did not view the body) but he was to make his findings from the material supplied to him.

Medical and legal experts are agreed that any doctor with a vested interest has a right to attend such a post mortem and an obligation to report back to the people who retained him.

(c) Dr. Gordon persuaded Dr. Van Straaten to change his findings to death being caused by the application of force to the neck as being more accurate. In his own evidence, he stated that "throttling could not be excluded."

(d) He knew that none of the policemen had suffered any injury in the alleged struggle at about 9.30 a.m. Yet his testimony is that most of the injuries on Mdluli's body could have been caused in the struggle that morning! This is a theoretical possibility which is not

applicable when the other known facts are considered and is not balanced by any indication of how the injuries were probably caused.

3. (a) It was quite clear to the judge that the police version was a fabrication.

(b) The prosecutor was a State employee. Defence Counsel had been instructed by the State Attorney. The conduct of Counsel was not according to the adversary system which is the basis of South African law of criminal procedure as is usual in cases where accused plead "not guilty".

(c) The prosecution agreed on a statement of facts with the defence, thus excusing the policemen from appearing personally in court to testify. Thus, although it claimed that the police account of how and when Mdluli died was improbable, it decided that it did not want to cross-examine the policemen in court on their "improbable" stories; more importantly, it did not want to risk exposing them to examination by the judge.

(d) The inference is inescapable that there was a conspiracy to conceal the truth. The first conspiracy clearly involved the police who had killed Mdluli. The second conspiracy was to protect the police who had killed Mdluli and this involved the prosecution.

(e) Faced with this situation did the judge lack moral courage and shirk his duty to find that there was a conspiracy, or did he also join the conspiracy? Whatever the answer, his finding provided aid and comfort to the killers of Mdluli.

DOCTOR HOUSEN MIA HAFEEJEE (Age 26)

Dr. Haffeejee was a dentist, employed at the King George V Hospital, Durban. He was taken into custody at about 8 a.m. on 2 August 1977 by policemen lying in wait for him on the road he normally took to work.

He was found dead in a cell at the Brighton Beach Police Station, Durban, at 4 a.m. on 3 August 1977. The inquest was held on 15 March 1978.

Police version

Captain Du Toit, Lieutenant Taylor and other policemen interrogated him from shortly after 8 a.m. to close on midnight. At 12.20 a.m. he was formally arrested and locked up at the Brighton Beach Police Station.

He was not assaulted by the police. There had been a scuffle when he had been taken into custody in the morning to force him into the police car. At about 8 p.m., there had been a second scuffle when he would not re-enter the police car near the Durban beach. There was a struggle and force had to be used by four or five policemen. He might have been injured in those scuffles though no blow had been struck.

At first, he gave signs of co-operation 'to a point'. He went with the police and pointed out places. After the second scuffle, he refused to answer questions. He was thereafter taken to the police cell where he was shown highly incriminating documents in his own handwriting which shocked him. This was the motive for the suicide. He did not complain of any further injuries. He was alone in the isolated cell and no one had access to him.

He was found dead by Constable H. D. Naude during a routine inspection at 4 a.m.

Brigadier L. P. Neethling, of the Police Forensic Science Laboratory, Pretoria, in a video-tape recording on 28 February 1978, reconstructed how he might have killed himself by repeatedly rolling his body tying his trouser legs to the grill.

Medical evidence

Medical evidence was given by Professor I. Gordon, State Pathologist, Durban, Mr. D. H. Biggs, Orthopaedic Surgeon and Mr. Theo G. Lorentz, Fellow of the Royal College of Surgeons.

Professor I. Gordon: The body was behind the door on its buttocks with the lower limbs on the floor; the trunk was upright. the head had been passed through the "V" of the trousers with the legs tied together tightly and twisted, the ends of the legs being tied to the door grill with a handkerchief. The trousers were tied around the neck so tightly that they had to be cut free with a razor blade.

Death was consistent with hanging.

There were 40 to 50 abraded wounds on the body; there were ligature marks on the neck, multiple superficial injuries on the surface of the skin, and deeper injuries, bruising of the elbow, knees, ankles and ribs, and a mass of abraded bruises between the buttocks, loin and lower margins of the shoulder blades; there was extensive bruising of the scalp, back, hips, feet, breast and stomach wall.

Bearing in mind their grouping, shape and distribution, he could not think of any way in which they could have been caused. Some of the injuries could have been caused by a booted foot, fist or fall against a hard object. The only safe conclusion is that force was applied at some stage between

four and twelve hours before death, that is, between 3 p.m. and midnight.

Mr. D. H. Biggs said death had been caused by a tight constricting band around the neck. He was completely mystified by the marks on the body. He had never seen similar marks on other people. He conducted experiments on pieces of skin from dead dogs using a special pair of pliers. They produced marks similar to those on the body.

Mr. Theo G. Lorentz said he had been in practice as a surgeon for twenty years. The mechanism of the injury (extensive extravasation of blood in the sub-cutaneous tissues of the scalp) was likely to have been caused by a direct blow to the head and would not have gone unnoticed. He would have expected Haffejee to be dazed or concussed. In his opinion, no satisfactory account had been given to the court by Lieutenant Taylor or Captain du Toit to explain the injury to the head.

The abdominal injury was potentially serious and likely to have been caused by a direct blow. He also found it difficult to attribute the number of superficial lesions, and the severity and extent of the deep bruising, to any event described in court.

Other evidence

Other evidence included the following:

<u>Captain du Toit</u>	body weight	105kg
<u>Lieutenant Taylor</u>	body weight	82kg
<u>Dr. Haffejee</u>	body weight	59kg

The names and body weights of the other two or three policemen involved in the scuffles were not disclosed.

Result of inquest

The inquest magistrate, Mr. T. L. Blunden, held that the police version could reasonably be true. He found that the deceased had hanged himself; his death had not been brought about by any act or omission amounting to an offence on the part of any person.

Some remarks

Brigadier L. F. Neethling's reconstruction is most ingenious. It implies powers of will and strength which are fantastic. That it was considered necessary to produce such a witness is itself most revealing.

The injuries on Haffeejee's body established that he was tortured. The only reasonable inference from the medical evidence is that he was deliberately killed.

The findings of the inquest magistrate are a travesty of justice. They only served to conceal the role of the police in the death of Dr. Haffeejee, thereby affording them the necessary protection and licence to continue torturing detainees.

BAYEMPINI MZIZI (Age 54)

Mr. Mzizi had been a long standing member of the African National Congress. He was arrested on 9 July 1977, at Highflats, Natal. He died on 13 August 1977. An inquest into his death was commenced on 13 December 1977.

Police version

According to Lieutenant-Colonel I. Coetzee, Deputy Chief, Security Police, Durban, Mr. Mzizi was first held at the Rosburgh Police Station, Durban. On 14 July 1977 he was transferred to the Brighton Beach Police Station, Durban. He was interrogated about offences under the Terrorism Act, between 12 July 1977 and 11 August 1977.

The interrogation was at all times very friendly and there was no bad feeling between him and the police. He was very co-operative and gave the Security Police a lot of information freely, including certain names in connection with the investigation. At the time of his death, no charges had been drawn up against him.

There was no indication that he contemplated suicide. If there had been the police would have taken steps to prevent it. He had said that Johannes Phungula had warned him that if he ever leaked out any information, his kraal and family would be destroyed. He definitely took the threat very seriously.

He had been seen 225 times by twenty-one different policemen and a magistrate.

Constable Martin Stephanus Strauss said that at 11.05 p.m. on 13 August 1977, he found Mzizi standing against the cell wall; a cord made from strips torn from a jacket was around his neck tied to the window grill and pulled tight by the weight of his body. He was the only person who had a key to his cell which was usually kept in a locked safe but that night it was kept in an unlocked drawer. He had last visited the cell at about 10 p.m.

Medical evidence

Professor I. K. Gordon, Chief State Pathologist, Durban, said:

- 1) Death was due to hanging;
- 2) There were no bruises, abrasions, or other signs of violence on the body;
- 3) He could not say whether hanging was suicidal or homicidal;
- 4) All the factors that a medical expert looked for in a homicidal hanging were absent.

Result of inquest

Mr. X. Odendaal, the inquest magistrate, found:

1. that Mzizi had committed suicide;
2. that he had a strong motive to do so:
 - (a) Members of the African National Congress had threatened to destroy him and his family if he co-operated with the police;
 - (b) If convicted, he could face a long prison term.

Some remarks

1) Considering the **police** version, Mzizi was an eminently suitable, if not an ideal, state witness. At first glance, it may appear strange that the police, although they had completed interrogation, had not decided to use him as a state witness. But on reflection this is not strange. If the court had been told that it had been decided to use him as a state witness, evidently he would have had police protection and it could not have been alleged that he had any motive to commit suicide.

2) Colonel Coetzee was satisfied that Mzizi took the threats by Johannes Phungula very seriously. It is therefore very strange that he was not only not offered police protection but also that it was not anticipated that he would take any action, such as suicide, as a result of his fears. This display of lack of concern for a "very friendly", "very co-operative" witness is remarkable, to put it mildly, but necessary as "he committed suicide."

3) Another unusual feature was the absence of a signed statement by Mzizi. Interrogation had come to an end two days before he died. He had given a "lot of information freely." The police are usually most insistent that a detainee signs a statement but there is no evidence of that in this case.

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4) Only a few days before Mzizi's death, Dr. Hoosen Mia Haffeejee had been brutally tortured and murdered. The public outcry was not yet over. In these circumstances the absence of serious injuries on the body could be expected. He had been in detention for over amonth and other injuries would have healed. Torture and killing as in the case of Mohapi do not leave evidence of injuries other than the cause of death.

CASE NO. C

THE ACCUSED: NATAL INLAND DIVISION SECURITY POLICE, PIETERMARITZBURG

COLONEL JOHANNES (HANS) G. DREYER

MAJOR JACOBUS JOHANNES DE SWARDT

CAPTAIN ELS

WARRANT OFFICER LOUIS BOTHA

WARRANT OFFICER GERNTHOLTZ

SERGEANT ELS

SERGEANT BASIL INDIMANDE

SERGEANT DABULA SIFUMBA

SERGEANT VAN RENSBURG

CONSTABLE STOFFEL DE WIT

? KHUMALO

? MBATHA

PARTICULARS:

<u>CHARGE</u>	<u>DATE</u>	<u>VICTIM</u>	<u>WITNESS</u>
Torture	20.7.1975 to 24.8.1975	ALICE TSONGA	The victim
Murder	9.12.1976 to 27.2.1977	AARON KHOZA	1) Inquest record 2) Dr. T.Hetherington 3) Major D. Ingram
Torture	20.1.1977 to 25.2.1977	NOMALIZA KRAAI	The victim
Murder	31.1.1977 to 22.2.1977	SAMUEL JULI MALINGA	1) Post Mortem examination report 2) Mrs. Ellen Malinga

AARON KHOZA (Age 45)

Mr Khoza lived at Amakhotsho Street, Kagiso, Krugersdorp. He was arrested under Section C of the Terrorism Act on 9 December 1976. He died on the night of 26/27 March 1977.

Police version

Aaron Khoza was arrested in Krugersdorp and on 1 March 1977. He was transferred to Pietermaritzburg jail under the command of Colonel J. G. (Hans) Dreyer, Head of Security Police, Inland Division, Natal.

Constable Stoffel de Wit, the warder on duty, found him dead in his cell with a jacket fastened around his neck with a shoelace. A second shoelace was attached to one of the window bars and the jacket.

He hanged himself.

Medical evidence

Dr. Thomas Hetherington, a local district surgeon, examined the body in the cell at about 8.15 a.m. - about an hour after he had been called.

Rigor mortis was well advanced. He estimated the time of death to be six hours before the examination.

There were no haemorrhages or bruising of the deep tissue of the neck. the neck was not fractured but the airpipe was compressed.

The cause of death was asphyxia consistent with hanging.

Other evidence

Constable de Wit, during his rounds, kicked on the cell door as the peephole was obscured by a shirt. He was not perturbed as it was not unusual for a prisoner's clothing to be hung from the cell door. He shouted Khoza's name and got no response. He thought that the detainee was asleep.

Major Douglas Ingram, Officer Commanding, Pietermaritzburg prison, said it was a warder's duty to observe prisoners through the peephole every hour. If the peephole was obscured, the prisoner should be instructed to remove the obstruction.

An inspection in loco on 10 May found a nail fixed to the inside of the door about 45 cm above the peephole. When a jacket was hung from the nail, it obscured the peephole and the exact type of garment could not be established. There was no glassed window frame in the cell. Photographs taken before the removal of Khoza's body show a glassed window frame.

No other details of the post mortem are available. No representative of the family was present.

On 13 April 1977, Brigadier J. H. Jordaan, Chief Criminal Investigation Department Officer for the Natal Inland Division, told the Rand Daily Mail correspondent that Khoza, of Amakhotsho Street, Kagiso township, on the West Rand, was detained on 9 December 1976, and died on the night of 26 March 1977. He was unable to say whether the man died in the police cells or in the central prison.

Result of inquest

P. J. Miller, the inquest magistrate of Durban, found:

- 1) that the prisoner committed suicide;
- 2) nobody was to be blamed for his death.

Some remarks

- 1) Aaron Khoza had been in detention for 109 days. It is extremely significant that no evidence of interrogation or admissions during interrogation was given at the inquest. Nothing in the evidence indicates a motive for suicide.
- 2) Brigadier Jordaan's uncertainty as to where he died when he gave exact particulars of house address and dates of arrest and death imply that he did not die in the prison cell. A detainee is not "interrogated" in prison. He is taken away, usually to the offices of the Security Police.
- 3) The use of jacket and shoelaces as suggested is improbable. With a glassed window, the improbability merges into impossibility.
- 4) Aaron Khoza was probably killed during interrogation and a suicide in the prison cell faked.

MISS NOMALIZO KRAAI (Age 24)

Miss Kraai lived at Meadowlands, Soweto. She was a student at the University of Zululand during 1976.

She was arrested at about 2 a.m. on 20 January 1977 at her home in Meadowlands during the university summer vacation. She was detained at the Meadowlands Police Station for the first four days.

She was tortured on two occasions. The policemen she is able to identify are:

Captain Els

Sergeant Botha

Sergeant Van Rensburg

Mbatha

Khumalo

There were other policemen whose identities she did not discover.

On 24 January 1977, she was removed to the Volkrust Police Station. The following day, a Captain Els arrived. He asked her whether she could speak Afrikaans. When she told him that she was not fluent in that language, he picked up an iron bar which was on the table and struck her on the head with it. She felt dizzy. She had headaches for two weeks thereafter.

He then questioned her about the demonstrations at the University of Zululand on 17 June, the previous year. She refused to answer his questions and was told that she would be left in her cell until such time as she was prepared to co-operate. He then left.

A month later, on 25 February, other security policemen arrived. She was taken to the Charlestown Police Station. Among this group was a black policeman whose name was Mbatha. She was again questioned as before. And again she said that she did not know. The white sergeant then said he did not like people who say they do not know. Mbatha then assaulted her by hitting her with his open hands and with his fists, and kicking her all over her body. His main targets were her face and her private parts. The other policemen joined in the assault which continued for about fifteen minutes. She was lying on the floor with her mouth bleeding and face swollen. She was then returned to the Volksrust Prison.

She was questioned on a number of occasions thereafter and also told that she was required as a witness for the state. She refused to co-operate. At the end of six months she was released.

She escaped from the country shortly thereafter.

SAMUEL JULI MALINGA (Age 45)

Mr. Malinga was detained on 31 January 1977 in terms of Section 6 of the Terrorism Act. He was held at Soweto and subsequently on an uncertain date he was taken to Pietermaritzburg. According to his wife, when she went to John Vorster Square after his arrest to enquire as to his whereabouts, she was told that he had been transferred to Pietermaritzburg. He died on 22 February. No inquest was held.

Police version

Colonel J. G. Dreyer, Officer Commanding Inland Division, Security Police, said that when Malinga was brought down to Pietermaritzburg, he complained of a heart disease. He had tablets in his possession. The Security Police called in a doctor after he had complained and he was admitted to hospital about 16 February. He died on a Tuesday afternoon, 22 February.

Medical evidence

Hospital sources said that Malinga had died of a pulmonary embolism or respiratory failure.

Professor I. Gordon, Chief State Pathologist of Durban, who performed the autopsy, said that his death was "as a result of a disease process of the heart of fairly long standing, complemented by development of changes in his lungs. Pneumonia was a final cause of death which would not have been hastened by detention. I can confirm that he died of natural causes. His detention had nothing to do with his death."

Mrs. Ellen Malinga, the dead man's wife, said that she had told the Security Police that when he left home he was very healthy; she did not know him to be a sickly person; there was nothing wrong with him when they detained him. The Security Police had refused her permission to see him in detention. She felt bitter about that and felt it was uncalled for if it was true that he was sick all the time.

Some remarks

Professor Gordon was evidently projecting detention as a simple deprivation of liberty. But he was fully aware that the reality involves much more - interrogation and torture of many kinds. He was aware of the pressures that interrogation alone, over a prolonged period, can generate. Torture, though illegal, can be applied and, especially in the case of a detainee with a known heart complaint, intensifies pressures without leaving evidence of injuries to be found at a post mortem examination. Professor Gordon appears to have been ready, if not anxious, to exculpate the police.

CASE NO. D

THE ACCUSED: WOMAN WARDER VORSTER

PARTICULARS:

CHARGE: TORTURE

DATE: SEPTEMBER 1974 to MARCH 1975

VICTIM: BRIGITTE MABANDLA

WITNESS: THE VICTIM

(See "B" above)

CASE NO. E

THE ACCUSED: BRIGADIER L. P. NEETHLING

PARTICULARS:

CHARGE: DIRECTLY ABETTING, ETC., MURDER

DATE: 3.8.1977 to MARCH 1978

VICTIM: HOOSEN MIA HAFFEJEE

WITNESS: 1) INQUEST RECORD
 2) MR. D. H. BIGGS
 3) MR. THEO G. LORENTZ

CASE NO. F

THE ACCUSED: EASTERN CAPE DIVISION, SECURITY POLICE, PORT ELIZABETH

COLONEL PIETER JOHANNES GOOSEN
MAJOR R. HANSEN
MAJOR P. R. De JONGH
MAJOR HAROLD SNYMAN
CAPTAIN P. S. SCHOEMAN
CAPTAIN DANIEL PETRUS SIEBERT
LIEUTENANT ALFRED OOSTHYIZEN
LIEUTENANT L. P. DU PLESSIS
LIEUTENANT VERCEUIL
LIEUTENANT WINSTON ERIC WILKEN
WARRANT OFFICER JACOBUS BENEKE
WARRANT OFFICER HENRY FOUCHE
WARRANT OFFICER HATTINGH
WARRANT OFFICER RUBEN MARX
WARRANT OFFICER "SPYKER" VAN WYK
SERGEANT BOWEN
SERGEANT GENDA
SERGEANT GQULUKA
SERGEANT P. J. NEL
SERGEANT NICHOLSON
SERGEANT NIEWOUDT
SERGEANT ROWLAND F. PRINSLOO
SERGEANT VILJOEN
SERGEANT PAUL JANSE VAN VUUREN
CONSTABLE C. DE JAGER
CONSTABLE MENE
CONSTABLE M. P. SMITH

PARTICULARS:

CHARGE	DATE	VICTIM	WITNESS
Torture	September 1974 to February 1975	BRIGITTE MABANDLA	The victim
Murder	15.7.1976 to 5.8.1976	FRANK MAPETLA MOHAPI	1)Inquest record 2)Mr. Allardice 3)Dr. Mamphela 4)Miss Thenjiwe Mtintso
Torture	13.8.1976 to August 1977	JOSEPH MASEMOLA	The victim
Murder	10.12.1976 to 15.12.1976	GEORGE BOTHA	1)Inquest record 2)Dr. G. J. Knoebel
Murder	18.8.1977 to 12.9.1977	STEPHEN BANTU BIKO	Inquest record
Torture	24.10.1977 to 8.12.1977	ALCOT KIBI	The victim
Torture	7.11.1977	NORMAL JACOBS	The victim
Murder	10.7.1978	LUNGILE TABALAZA	1)Inquest record 2)Dr. Leendert Von Ieferin

FRANK MAPETLA MOHAPI (Age 29)

Mr. Mohapi had been General Secretary of the South African Students Organization. He was in detention from November 1974 to April 1975. In September 1975, he was banned and restricted to King Williams Town. He was arrested and detained under the Terrorism Act on 17 July 1976. He died on 5 August 1976. An inquest was subsequently held.

Police version

Mr. Mohapi was arrested by Captain P. S. Schoeman. The interrogation team consisted of:

Captain P. S. Schoeman

Captain (now Major) R. Hansen

Warrant Officer "Spyker" Van Wyk

Warrant Officer Marx

Sergeant Nicholson

and others.

On 5 August 1976, a Constable A. P. Smith found him hanging from two pairs of jeans, rolled together, one end tied to the bars of his cell and the other in a noose around his neck, at the Kei Road Police Station. He was dead.

The suicide note which he left written on toilet paper, was read to the inquest court. Sergeant K. F. Landman, a handwriting expert from the Criminal Investigation Department, Pretoria, stated that the alleged suicide note was in the handwriting of Mapetla Mohapi, although an attempt had been made at disguising the handwriting.

He had therefore hanged himself.

Medical evidence

Dr. R. B. Hawkes, State Pathologist, stated that Mohapi had died from an application of broad-based force to the neck but that force had not been applied by the two pairs of jeans the police said he had hanged himself with; it could have been by some other cloth. Death could have been caused by pressure to the neck prior to the legature being applied.

Dr. Mamphela Ramphele said that he could have died from the application of force to the neck while in a sitting position, as demonstrated by witness Miss Thenjiwe Mtintso.

Other evidence

Miss Thenjiwe Mtintso, said that while she herself was in detention at one stage, Captain R. Hansen had wrapped a wet towel around her head and face and pulled the ends in opposite directions across her neck causing her partial asphyxiation. When he removed the towel, he said, "Now you see how Mapetla died."

Mr. Allardice, an experienced and well-known hand-writing expert, submitted the alleged suicide note to a thorough and detailed study. He was satisfied, beyond all doubt, whether or not the handwriting had been disguised, that the alleged suicide note had not been written by Mapetla Mohapi.

Constable Smith, who had found the body, said that a Security Police sergeant might have been in the cell just before Mohapi died. It was possible that Sergeant Nicholson had been there that afternoon.

Result of inquest

Mr. A. J. Swart, the Inquest Magistrate, found that Mapetla Mohapi died from an application of force to the neck and that nobody was to be blamed. In effect, though not in form, this is a verdict of suicide.

Some remarks

- 1) Where did the second pair of jeans come from?
- 2) The evidence of the State pathologist points irresistibly to a faked "suicide".
- 3) It is not possible that the inquest magistrate did not appreciate the significance of the State pathologist's evidence.
- 4) It follows that his findings were knowingly designed to support the fabricated police version.

JOSEPH MASEMOLA (Age 21)

Masemola's home was at Diepkloof, Soweto.

He was the Regional Cape Organizer of the South African Student Movement.

He was arrested on 13 August 1976 at school at King Williams Town.

He was tortured on a number of occasions and by a large number of policemen. They operated in teams and the names he can recollect are,

Major Hansen

Captain Schoeman

Lieutenant Claasen

Warrant Officer Hattingh

Sergeant Viljoen

Sergeant Nicholson

Sergeant Fouche

Sergeant Bowen

Sergeant Ganda

Sergeant Malgas

Sergeant Gquluka

On the first occasion, on the day of his arrest, he was taken to the King Williams Town Police Station. There he was assaulted by being struck with fists and batons. His clothing was forcibly removed and he was thereafter assaulted with fists and batons on his naked body. His head was repeatedly rammed against a wall. This went on for a continuous period of six and a half hours. Later the same day, he was taken to some other place in

King William's Town and again assaulted with fists and batons on his naked body. He was then compelled to adopt a half-squatting position, while still naked, with arms extended forward and heels raised, with two pins, points upward, fixed in sponges under his heels. The fronts of his thighs were then repeatedly hammered with batons till his heels fell upon the pins and were penetrated.

On the third occasion, later the same day, at King William's Town, in the offices of Warrant Officer Hattingh, he was again assaulted with fists and batons on his naked body for a period of some hours. Thereafter, still naked, he was handcuffed to a chair, and electric shock treatment was applied at his breasts in two to three second bursts for a period of about thirty minutes.

On 15 August, he was again assaulted at King William's Town with fists and batons. Later the same day, while still naked, he was again compelled to assume a half-squatting position with arms extended forward, heels raised, with the pins placed under his heels and hammered on the front of his thighs with batons as before. He was again handcuffed to a chair and electric shock treatment applied as before.

Between 15 August and 1 September, on numerous occasions, the same treatment was repeated except on one day. On 25 August, in addition to the foregoing treatment, a pair of pliers was used to pinch the foreskin of his penis and to pull and stretch the same causing extreme pain, injury and infection.

He was thereafter removed to the Cambridge Police Station where on numerous occasions between 4 November 1976 and 31 January 1977, his clothes were forcibly removed and he was thrown on the floor and forcibly held there.

His naked body was made wet, he was blindfolded, handcuffed to a chair, a wet canvas bag pulled over his head with the drawstring drawn tight across his neck and thereafter subjected, alternatively, to assaults with fists and batons, and electric shocks causing extreme pain, partial suffocation, and on three occasions, loss of consciousness.

He was not tortured again until August 1977. At the Cambridge Police Station, on a number of occasions, he was assaulted, while naked, with fists, batons, and booted feet. He suffered two broken ribs.

GEORGE BOTHA (Age 30)

George Botha was a teacher at the Peterson High School, Port Elizabeth. He was arrested and detained on 10 December 1976. He died on 15 December 1976. An inquest was held in May 1977.

Police version

Major-General Mike Geldenhuys, Chief of Security Police, said Botha had been taken into detention at the school on 10 December 1976. He was on the sixth floor, Sanlam Buildings, Port Elizabeth, on 15 December 1976, being taken to Security Police offices by Major Harold Snyman and Sergeant Rowland E. Prinsloo.

At the entrance to the barred gateway, he broke loose, ran to and dived head first over the railing, and down the stairwell to his death.

Major Snyman said that during interrogation on the previous day by Captain Siebert and himself, he had divulged incriminating information, and had been cheerful. The police had not assaulted him.

Captain Daniel Petrus Siebert, said that he had been evasive and was surprised to find that the police had certain information about him. The police had treated him as a cultured person and had had respect for him.

General Gert Prinsloo, Commissioner of Police, had said earlier that he had not even been questioned yet at the time of his death.

Medical evidence

Medical evidence was given by Dr. Gideon Jacobus Knoebel, State Pathologist and Dr. Benjamin Tucker, Chief District Surgeon, Port Elizabeth. -----

Dr. Gideon Jacobus Knoebel said that there were at least four wounds on the body, which were inflicted two to six hours before death. The findings were based on examination of skin from abrasions found on the shoulder, back of upper chest, right upper arm, and armpit. The skin taken from his knuckles showed two wounds, one of which was at least three days old.

Dr. Benjamin Tucker said that a number of injuries had been inflicted on Botha about two hours prior to death. The wounds had occurred before death, but it was difficult to ascertain time of injuries.

Result of inquest

The inquest magistrate, Mr. J. A. Coetzee, found:

- (a) The evidence of the police was given in a satisfactory manner, they had made a good impression and the court accepted their evidence in full.
- (b) The court accepted the pathologists' findings about the wounds, but did not know how they were sustained.
- (c) Mr. Botha was not assaulted
- (d) Nobody was to blame for the death of the detainee.

Some remarks

The medical evidence establishes the fact of torture. It follows that the police version must be rejected as a fabrication, and that they must be held responsible for his death.

STEPHEN BANTU BIKO (Age 30)

Mr. Biko was the first President of the South African Students Organization. He was an indefatigable organizer and speaker, visiting black campuses and expounding the philosophy of black consciousness. He was expelled from the Medical School, Natal University, for his political beliefs. He was also instrumental in establishing the Black Peoples Convention (BPC), of which he was elected the first President. The Security Police subjected him to constant surveillance and harrassment. He was banned in 1973, after which he was arrested, detained and charged many times, but he was never convicted of any offence. In 1976, although he could not attend, he was elected Honorary President of the BPC.

He was arrested again on 18 August 1977 in terms of the Terrorism Act on suspicion of being actively concerned in the distribution of inflammatory pamphlets. He died on 12 September 1977 at Pretoria.

Biko's death attracted international notice and events connected with his detention and death have received extensive publicity in the press. The official inquest commenced on 14 November 1977 and it too was very extensively reported. A useful reference is Steve Biko by Hilda Bernstein (published by the International Defence and Aid Fund for Southern Africa, London).

Police version

Biko was arrested at about 10.20 p.m. on 18 August 1977, at a road-block outside King Williams Town which had been put up to arrest him, and he was detained at the Walmer Police Station, Port Elizabeth. He was kept naked, and not allowed out of his cell even for air or exercise until 6 September.

On that day, he was taken, naked and manacled. to Security Police offices at Room 619, Sanlam Buildings, for interrogation. The policemen involved in the interrogation were:

Colonel Pieter Johannes Goosen, Officer Commanding, Eastern Province Division

Captain D. P. Siebert

Major Harold Snyman

Warrant Officer Ruben Marx

Warrant Officer Jacobus Beneke

Sergeant Nieuwoudt

Lieutenant Winston Eric Wilken

Warrant Officer Henry Fouche

Sergeant Paul Janse Van Vuuren

Lieutenant Alfred Oosthuizen

His handcuffs were removed, he was allowed to wear a short-sleeved shirt and trousers and was interrogated by the day interrogation team of Major Snyman, Captain Siebert, Warrant Officer Marx, Warrant Officer Beneke and Sergeant Nieuwoudt, from 10.30 a.m. until 6 p.m. Initially he adopted an extremely aggressive attitude. He evaded questions concerning his activities. Later he became more co-operative and, inter alia, admitted compiling the pamphlets distributed in Port Elizabeth on 17 August. Handcuffs and leg irons were put on him, and he was left in the care of the night interrogation team of Lieutenant Wilken, Warrant Officer Fouche and Sergeant Van Vuuren. He was prepared to make a statement but asked for fifteen minutes, then went off to sleep. The next morning the day interrogation team arrived at about 7 a.m. Shortly thereafter, Biko's handcuffs and leg

irons were removed, he was offered a chair to sit on, and the interrogation was resumed.

He was confronted with certain facts. He got a wild expression in his eyes suddenly, jumped up immediately like a man possessed, threw a chair at Major Snyman, charged at Warrant Officer Beneke, lashed out wildly at him, pinned him against a steel cabinet. Major Snyman, Captain Siebert, and the other members of the team went to his aid. There was a tremendous struggle during which they knocked against tables in the offices. Biko fell several times against walls, cabinets, and the bars. They succeeded in overpowering him, then put him in handcuffs and leg irons which were fastened to the grille in ~~the~~ office. For a while he did not calm down and continued to struggle against his handcuffs and leg irons. There was no other occasion when he could have been injured.

Thereafter Biko was talking incoherently and in a slurred manner. He refused to react to questions. He did not take water or food, nor did he use toilet facilities. He was believed to be shamming.

He was examined on a number of occasions by the district surgeon and the chief district surgeon. As his condition was deteriorating he was eventually sent to Pretoria, to get the best medical attention. There he died on the 12 September.

Medical evidence

Professor Johan Loubser, Chief State Pathologist, Pretoria, found that there was a visible injury on Mr. Biko's forehead, consisting of a bruise, swelling and scab shown on a photograph before the court. There were two

cuts on the lip, bruising of the rib area, abrasions on the wrists and feet, and a wound on the left big toe. The wound on the big toe appeared to have been a blister with a small hole in it caused by something like a pin or needle. The bruising on the rib area could have been caused by jabs with a finger or a stick. The two lip injuries were likely to have been caused by two blows. The head injury was likely to have been caused by a single force so applied that it hit the left frontal region on such a broad base that the direction of the impulse fanned out to cause five lesions in the brain on the opposite side of the head. The head injury was the cause of death. It could have been sustained during the struggle described by the police. It may have caused unconsciousness but he would not have been surprised if it did not.

Professor Ian Simpson, Head of the Department of Pathology, University of Pretoria, was present at the post mortem at the invitation of Professor Loubser. In his opinion only one application of force to Biko's left forehead caused the five lesions in the brain which had resulted in death. He would have been very surprised if that injury had not caused loss of consciousness. In his opinion, the point of no return was probably passed within six to eight hours after the injury.

Professor Neville Proctor, Professor of Anatomical Pathology, University of the Witwatersrand, said he had been practising as a neuro-pathologist for 25 years and must have examined several thousand brains. He agreed that the head injury had caused death. In his opinion the combined effect of all five would have done this though lesion number 1 was in itself enough to do so. In his opinion the lesions were not caused by a single blow;

there must have been at least three blows to the head. After the blow, Biko must have been unconscious for at least ten to twenty minutes.

Dr. Jonathan Gluckman, pathologist for the Biko family, said he had studied the conclusions reached by Professor Proctor and was completely satisfied with them.

All medical experts agreed that the injury was sustained between the night of 6 September and 7.30 a.m. on 7 September.

Result of the inquest

Mr. Marthinus Prins, the inquest magistrate, was assisted by Professor I. Gordon, Chief State Pathologist and Professor of Forensic Medicine at Natal University; and Professor J. Oliver, University of the Orange Free State Medical School.

The inquest court found:

"The cause or likely cause of Mr. Biko's death was a head injury, followed by extensive brain injury and other complications including renal failure. The head injury was probably sustained on the morning of 7 September, during a scuffle with a security police in Port Elizabeth. The available evidence does not prove that death was brought about by an act or omission involving an offence by any person".

Some remarks

- 1) There was very extensive cross-examination of all the witnesses.
- Consideration of all the evidence showed:

- (a) that the police witnesses could not be believed;
- (b) that the district surgeon and the chief district surgeon at Port Elizabeth were also unreliable, and in parts, untrue witnesses;
- (c) that Professor Loubser, the state pathologist, was the only expert witness who considered it reasonably possible that unconsciousness did not occur. This fitted in with the police version.

2) The medical experts were in agreement as to the likely clinical symptoms which result from brain lesions such as those suffered by Biko. There was a striking resemblance between the behaviour of Biko and the description of symptoms in "Injuries of the Brain and Spinal Cord and their Coverings", by Sir Charles Symons (described by Professor Gordon as one of the greatest neurologists to have practised in the United Kingdom this century). These symptoms postulate possible violent behaviour as the result of brain injury. If indeed there was a scuffle, it follows that Biko was injured, rendered unconscious, recovered and thereafter the scuffle occurred. The inference from all the evidence is that at some time during the morning of 7 September 1977, about or shortly before 7 a.m., Biko was assaulted and suffered the brain injury.

3) Colonel Goosen tried to suppress a telex message which he had sent to Brigadier Zietsman, in which he referred to the injury "which was inflicted" at 7 a.m. on 7 September. The content of the message accords with the uncontradicted medical evidence and confirms that the "scuffle" was a result of and followed the injury - it was not the occasion when the injury was sustained. As all the policemen involved attempted to conceal it, they must all be held responsible.

ALCOT KIBI

Mr. Kibi was a member of the Association for Science and Technology. He was arrested at about 3 a.m. on 24 October 1977 at his home. He was dragged by the scruff of his neck to a vehicle outside his home and taken to a gymnasium at the Algoa Park Police Station. There he was interrogated by a Mr. Nieuwoudt for about one and a half hours. He was told that certain people had said certain things at a concert. Mr. Nieuwoudt wanted to know who they were and what they said. When Kibi said that he did not know, he was hit repeatedly across the back with a sjambok.

At one stage, a Mr. Fouche stood him against a wall and threw darts at him. None of the darts hit him. He was then taken to the New Brighton Police Station where the interrogation continued. Whenever he could not recall what a speaker said, he was hit across the face and back with a hosepipe and he was threatened that he would be killed.

This interrogation and torture continued for about ten days at the end of which he agreed to make a statement.

He gave the above evidence of torture when he appeared as a witness in the trial of Monde Spier, Vysumuzi Mahejane and Tozamile Botha on 8 December 1977.

NORMAN JACOBS

Mr. Jacobs was a Coloured person and not known for any political involvement. He was arrested on 7 November 1977. On the day of his arrest he was taken to the New Brighton Police Station and tortured in the presence of the following policemen:

Lieutenant W. E. Wilken

Lieutenant L. E. Du Plessis

Sergeant P. J. Nel

Constable C. De Jager

Constable M. P. Smith

He was assaulted by Sergeant Nel and Constables de Jager and Smith. They demanded information from him as to the whereabouts of a pistol that was alleged to have been stolen. He was assaulted by being struck repeatedly over the head and shoulders with a plastic pipe.

He lodged a complaint and the three policemen were charged with assault.

Dr. F. Solomons, of Port Elizabeth, stated that he had examined Jacobs on 14 November 1977, and found that he had a number of bruises on his body.

Lieutenant Wilken and Lieutenant du Plessis both gave evidence. They said they were present when Jacobs was being questioned but no one was assaulted in front of them. They also admitted that they could not afford to admit in a court that an assault had taken place in their presence because it would have made them accomplices to the assault and it would have jeopardized their careers.

The magistrate before whom Nel, de Jager and Smith were prosecuted for assault was Mr. D. F. Smith, He found all the accused not guilty. His reasons were:

- (i) he considered it improbable that all three would have used the hosepipe to hit Jacobs;
- (ii) he found it strange that Jacobs had not given evidence of having consulted a doctor although he had been spitting blood for seven months; and
- (ii) he considered it possible that injuries were sustained as the result of an assault by fellow prisoners.

Some remarks

- 1) The magistrate's reasons disclose that he was unwilling to find that Jacobs had been assaulted.
- 2) His reasons for acquitting the policemen are too flimsy to be taken seriously. His verdict is a travesty of justice.

LUNGILE TABALAZA (Age 20)

Mr. Tabalaza was a Form III student at the Masibambane Junior Secondary School, Kwazakhele, Port Elizabeth.

He was arrested at a house in the Red Location, New Brighton, at 8 a.m. on 10 July 1978. He died at 3.05 p.m. the same day.

An inquest was held in October 1978.

Police version

He and a youth (not named) were arrested by Constable N. L. Thlabeni on allegations of arson and robbery, and immediately handed over to a so-called Unrest Investigation Unit of the Security Police. The policemen involved in the interrogation of Tabalaza were:

Major P. R. de Jongh

Lieutenant Verceuil

Sergeant P. J. Nel

Constable Mene

He was interrogated for some hours during the morning during which an alleged confession (not signed by Tabalaza) was drawn up. He was not assaulted or beaten. At 1 p.m. he was taken for finger-printing. Thereafter, he was taken by Major de Jongh and Constable Mene to a magistrate, Mr. W. de Waal Lubbe, to make a statement. This was shortly after 2 p.m. He did not make the statement. Major de Jongh and Constable Mene brought him back at about 2.40 p.m. to Sergeant Nel's office which had an unbarred window on the fifth floor,

Sanlam Buildings. Major de Jongh was showing Nel the statement at 3.05 p.m. when Tabalaza apparently opened a window and tried to jump to a roof across the street. He fell to his death on the street, 20 metres below. A white passer-by saw him crouch at the window and jump; there was nobody else at the window.

Medical evidence

Dr. Leendert von Ieperin, Senior State Pathologist, said the death was due to multiple injuries. He found the following injuries: compound fracture of the right lower leg, a fracture and dislocation of the pelvis, a fracture of the base of the skull, a fractured collar-bone and various superficial injuries.

Two types of injury were apparent on the body, some were fresh and others were older. Among the fresh injuries were bruises on the head and right leg, a 4cm cut on the chin, deep lacerations in the palm of the left hand, and 2.5cm cut below the right knee.

An abrasion on the temple, an injury to the elbow, and a superficial injury below one of the knees could have been caused about thirty minutes before death. Marks and bruises on the lower leg, elbow, hands, upper lip and neck could have been caused shortly before death. Cross-examined by counsel for the Police, he said that it was likely that these marks and bruises had been caused by the fall.

Other evidence

Mr. W. de Waal Lubbe, additional magistrate, said that Tabalaza was brought to him shortly after 2 p.m. Earlier in the day he had made a statement

to Sergeant Nel who had told him to repeat the same statement to the magistrate. He did not want to, but was afraid that if he did not, he would be beaten up when he returned. In answer to Counsel for the State he said that Tabalaza denied that he had been threatened or beaten.

A 17-year old youth(unnamed) said that Tabalaza was taken to a room by Sergeant Nel and when they returned Tabalaza had tears in his eyes. Nel was stretching a piece of wire.

When he told a police interpreter who helped to take a statement from him that they were assaulted, the interpreter said they had to be assaulted. He decided to make a statement after Sergeant Nel had read Tabalaza's statement to him.

In the afternoon, Tabalaza, followed by Nel, came into the room in which he was. Nel asked Tabalaza why he had told the magistrate that he had been beaten. He was angry. He grabbed Tabalaza by the collar and pulled him out of the room. The door was shut and he did not see Tabalaza again.

Result of the inquest

Mr. J. A. Coetzee, the inquest magistrate, said that police evidence to the effect that Tabalaza had not been threatened or assaulted had not been refuted. He accepted the police version: the cause of death was due to multiple injuries and no one was to blame.

Some remarks

- 1) The story about Major de Jongh showing Sergeant Nel the statement must be treated as an exculpatory invention:

- (a) Magistrate Lubbe testified that Tabalaza had made a statement to Sergeant Nel who had wanted that statement to be repeated to him.
- (b) The 17-year old youth said that Sergeant Nel had read Tabalaza's statement to him on the day of his arrest.
- (c) The evidence establishes that Sergeant Nel was the key figure in extracting statements from Tabalaza and the 17-year old youth.

It is inconceivable that Sergeant Nel would be engrossed in the same statement.

2) Magistrate Lubbe's evidence is revealing. He did not take a statement as Tabalaza did not wish to make one. His claim that Tabalaza denied being threatened and only feared a beating if he returned without making a statement is unacceptable. Why should he fear a beating if he had not been threatened or beaten already! Why was Sergeant Nel angry with Tabalaza for having told the magistrate that he had been beaten! How did Sergeant Nel learn that Tabalaza had complained to the magistrate that he had been beaten! At the same time, his failure to react to the complaint of beating indicates that he knew quite well that the police use third-degree methods or resort to torture. His complicity in the situation is revealed by his passing on the complaint to the police, despite knowing, as he must have, that he was thereby exposing Tabalaza to further punishment.

3) All the known facts, including the medical evidence and the gap in the police testimony relating to the 25-minute period between 2.40 p.m. and 3.05 p.m. support the conclusion that Tabalaza was tortured in Sergeant Nel's office during this period, and could not have had the opportunity to make an escape attempt.

4) The presence of the passer-by is convenient for the police. There have been other cases where evidence has been given by witnesses who were found to be policemen or associated with the police, either under cross-examination or after the case. As no evidence was led to show that this passer-by was an independent witness, no weight can be attached to his testimony.

CASE NO. G

THE ACCUSED: SERGEANT K. F. LANDMAN

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: 17 January 1977 to July 1977

VICTIM: FRANK MAPETLA MOHAPI

WITNESS: 1) Inquest record
Mr. Allardice
Dr. Mamphela Ramphele
Miss Thenjiwe Mtintso

(See case "F" above)

CASE NO. H

THE ACCUSED: WITWATERSRAND DIVISION, SECURITY POLICE, JOHANNESBURG

MAJOR J. N. CRONJE

MAJOR OLIVIER

MAJOR VISSER

CAPTAIN ARTHUR CROWRIGHT

LIEUTENANT COETZEE

LIEUTENANT EISELEN

LIEUTENANT PIET KRUGER

LIEUTENANT RADEBE

LIEUTENANT STEINBERG

WARRANT OFFICER D. JORDAAN

WARRANT OFFICER VILJOEN

ADJUTANT OFFICER J. MARE

SERGEANT I. CILLIERS

SERGEANT WILLIAM COX

SERGEANT SMITH

? KHOZA

? MTSHIZANA

CONSTABLE A. S. P. VAN VUUREN

PARTICULARS:

CHARGE	DATE	VICTIM	WITNESS
Torture	30.12.1975 to 24.8.1975	ALICE TSONGA	The victim
Torture	6.8.1976 to 24.3. 1977	JONATHAN TIYE	The victim
Murder	18.11.1976 to 8.1.1977	LAWRENCE QWATHI ND'ZANGA	Jonathan Tiye
Torture	December 1976 to ?	IAN DEWAY "INCH"RWAXA	The victim
Torture	8.12.1976 to July 1977	JOE MBATHA	The victim
Murder	14.12.1976 to 8.1.1977	NABOATH MZIKAYISE NTSHUNTSCHA	1) Inquest record 2) Professor J. J. F. van Jaarsveld
Murder	10.1.1977 to 20.1.1977	NAFIKE ELMON MALELE	1) Inquest record 2) Dr. N. J. Scheeper 3) Dr. D. E. Rosenberg
Torture	January 1977 to ?	AGNES MANYAKA	The victim
Murder	21.1.1977 to 15.2.1977	MATTHEWS MARWALE MABELANE	Inquest record
Torture	11.2.1977 to 12.2.1977	ELIAS TSIMO	The victim

ALICE TSONGA (Age 29)

Alice Tsonga lived in the Transkei. She was a qualified nurse and a member of the South African Students Organization since 1970. She was arrested on 1 June 1975 in Kimberly and charged with being in possession of Marxist literature. She was released on bail on 30 July 1975, and was immediately re-arrested and detained in terms of Section 6 of the Terrorism Act.

Subsequently, she was tortured on a number of occasions by numerous security policemen, most of whom she is unable to identify. She has given the names of the following:

Captain Arthur Cronwright

Captain Huistenuizen

Mtshizana

Visser

Mbatha

Khoza

Smith

On the first occasion, on 30 July 1975 and for a period of three days thereafter, at the offices of the Security Police, on the 6th floor of a building, she was assaulted repeatedly with fists and batons and by being kicked with shod feet all over her body.

During the first three days, she was not allowed to sleep.

She was denied toilet and ablution facilities, even though she was menstruating during that period.

On the second occasion, on 4 August 1975, and for a period of eight days after that, at the same place, she was again repeatedly assaulted by day and by night, though with a reduced frequency at night, be being struck with fists and batons and being kicked with shod feet.

She was then taken to Kompol Building, Pretoria. On three occasions, on 13 August, 16 August and 20 August, at Security Police headquarters at Kompol Buildings, she was tortured by being repeatedly struck with fists and batons and being kicked with shod feet.

On the third occasion, the torture was especially severe. Some policemen, including Smith, had come from Johannesburg, to join in the torture.

The last occasion on which she was tortured was 24 August 1977. She was taken to Security Police headquarters at John Vorster Square, Johannesburg. She was severely assaulted, but only with fists. Captain Cronwright was also among the torturers.

After she was released, she escaped from the country.

JONATHAN TIYE (Age 20)

Jonathan Tiye was a science student at Soweto. He was Organizer for the South African Student Movement. He was arrested on 6 August 1976, and detained in terms of Section 6 of the Terrorism Act. He was released seven and a half months later on 24 March 1977.

A large number of policemen took part in torturing him, but he could only identify:

Major Visser

Major Olivier

Captain Arthur Cronwright

Lieutenant Eiselen

Lieutenant Steinberg

Sergeant Smith

He was tortured at a police station at Soweto, at the John Vorster Square Police Station, at the Fort Prison, at the Modder B Prison, and at a place which he is unable to identify. The following forms of torture were used:

- 1) his head was rammed repeatedly against the wall;
- 2) his head was wetted, electrodes placed against his head, and he was repeatedly subjected to electrical shocks.
- 3) he was made to stand facing a wall blind-folded and compelled to hold a hot white block of crystalline substance while it was burning, during which he was told "this is white power";
- 4) he was assaulted, and compelled to pick up the said white burning block whenever it fell to the floor;

- 5) his feet were tied together, he was forced on to the floor, and his body was banged against the floor "like a bouncing ball";
- 6) he was told that whenever he spoke, he had to utter the word "baas";
- 7) he was thrown up into the air and allowed to fall on to the floor, he was thrown on to the floor, and at times against the iron legs of a desk;
- 8) he was continually beaten with batons and gun-butts, including blows on his neck;
- 9) he was put into a bare, dimly-lit room with blood-spattered walls, at the John Vorster Square Police Station and assaulted repeatedly by being struck with fists and batons and kicked with shod feet, and by having his head forcibly pressed on to his knees so that they were touching, and being jumped upon on his back, and kicked on his back with shod feet;
- 10) he was kept in isolation in a solitary confinement cell continuously, with his hands handcuffed and his legs in leg irons;
- 11) after he had complained to the doctor that he had been tortured by the police, he was punished:
 - (a) by being deprived of food, shoes and blankets for a period of two days, and
 - (b) by being compelled to assume a half-squatting position, with heels raised and arms extended forward with heavy telephone directories placed on his forearms, with a pin cushion with large pins pointed upwards under his heels, and being beaten.

He complained to the magistrate who visited him that he had been tortured. The magistrate replied that he was not there to listen to such things.

He was given dry, dirty meals, and cold black coffee without sugar. He lost considerable weight. When he complained about the food, they told him that if he did not like the food, he should not eat it. When he followed their advice, they forced him to eat.

He suffered a number of injuries as a result of his torture. He lost his molar teeth, and he passed blood in his urine. He still gets backaches and headaches. After he was released, he found he was often disoriented. Though he knew the way to school very well, he would nevertheless get lost. He found he could no longer lift weights.

He learned in June 1977, that the Security Police were looking for him again. On the day that they came for him, he had been warned. He jumped over a fence and took refuge with friends. He was satisfied that the police were in fact searching for him. He left South Africa in May 1978.

LAWRENCE QWATHI NDZANGA (Age 52)

Mr. Ndzanga was formerly National Secretary of the South African Railway and Harbour Workers' Union and a National Executive Committee member of the South African Congress of Trade Unions (SACTU). He was banned in 1963 and forced to resign from his trade union and cease his trade union activities. He and his wife were both detained in June 1968 together with Mrs. Winnie Mandela and twenty other Africans, under the Terrorism Act.

He was arrested on 18 November 1976, in terms of Section 6 of the Terrorism Act. At the time, he was ill and in bed.

He died on 8 January 1977.

The post mortem report was that he died of natural causes. He had suffered a heart attack.

He had been transferred from the custody of the Security Police to the Johannesburg Fort Prison on 12 December 1976. This meant that the Prison authorities had actual physical custody over his person subject to the overall control of the Security Police. He had been informed on 28 December 1976 that he was being charged under Section 2 of Act 83 of 1976 for recruiting persons to undergo military training abroad. No information is available as to whether he had actually been brought to court, or whether a date had been set for the trial.

At the prison, he was incarcerated in solitary confinement. For fifteen minutes each day, he was taken out into the prison yard for exercise. Although he was a sick man and was in bed on the day of his arrest, he was not put into the prison hospital. He complained that he was in severe pain and that he was not receiving medical attention. (He was in a cell in the

isolation section of the prison adjoining a cell in which Jonathan Tiye was being held. Shortly before he died, he informed Tiye of his physical condition and the pains he was suffering and the refusal of the authorities to give him any treatment).

IAN DEWAY "INCH" RWAXA (Age 20)

Mr. Rwaxa was arrested at Oshoek border post between Swaziland and the Transvaal, in December 1976. He was the chief witness for the state in the Pretoria trial. He was severely tortured but the only policeman he can identify is Lieutenant Coetzee.

On 30 December 1976, and on numerous other occasions, he was tortured both at Johannesburg and Pretoria. He was repeatedly threatened that he would be killed unless he co-operated with the police. He was assaulted with fists and shod feet until he was bleeding from his nose and mouth. A cloth was placed over his head and neck and pulled across his throat so that he suffered partial suffocation and twice lost consciousness. He was compelled to remain naked and without blankets. He was asked what had caused the swelling on his face and when he answered that it had been the police assaults, he was again assaulted and told that he had to say that the swelling had been caused by a bee sting.

He was first tortured by seven white policemen at John Vorster Square, Johannesburg. Subsequently, he was taken on a number of occasions to Kompol Building, Pretoria, where he was similarly tortured by various policemen. On one occasion, he was told that he should not tell the court that he had been beaten by the police because the court would say that he was lying.

Eventually he agreed to make a statement as required by Lieutenant Coetzee.

Shortly thereafter, he was given R200.00 and taken to visit his girlfriend at Soweto.

His sister was allowed to visit him twice.

He had been given "...a nice cell, with four pot plants, three mats..." and was getting a good diet.

Before he gave evidence, Lieutenant Coetzee took him to a room adjoining the court and told him that special counsel had been appointed for the witnesses but that he should say that he did not want counsel.

JOE MBATHA (Age 43)

Mr. Mbatha, a member of the ANC since 1958, was arrested on 8 December 1976 at 10.15 a.m. at his place of work and taken to John Vorster Square Police Station. There a major told him to tell all that he knew and he would be released, or "if I believe that the ANC is the organization, they will kill me." He denied any knowledge of the ANC.

"I was told to strip down to my underwear; it was 11.20 a.m." They put a canvas bag over his head, handcuffed his hands behind him and made him lie on the floor on his stomach. Electrodes were attached to the handcuffs and water poured down his head. He could feel them alternating the voltage on the Honda generator from six to twelve volts.

"I was tortured for thirty minutes. They stopped and asked me if I was willing to tell the truth. I still refused. They continued to beat me until about 12.30 the next morning."

Six policemen, all white, were involved including a Sergeant Cox, who spoke with a British accent, and could speak no Afrikaans.

They later searched his house and took all his documents, cheque books, passport, etc. They went through the yard with a metal detector.

He was brought back to John Vorster Square and handed over to another group. They tied him by his handcuffs to a burglar box above a window with his face to a wall. They struck him with the butts of FN rifles.

After this another group took over. They used rubber batons to beat him while he was hanging.

"Yes, I was still handcuffed. I remained handcuffed for three days. My hands and wrists were so swollen that eventually they had to saw the handcuffs off."

He stayed hanging in this way for seven to eight hours. He was then taken to a cell for the first time since his arrest. He only remained there for about fifteen minutes before being taken out again.

"They repeated hanging me over the window burglar proof. This time they showed me a window opposite. It was a room on the tenth floor. They said this is the Timol Room, this was where Timol died. One of them then said, 'even if you don't die we'll throw you out of a window too, but before you die you'll give us some information about the ANC' ".

"This continued all night and into the next morning. Then they took me out to the bush. When we got there they said that I had to take off my shoes. They put stones in my shoes and told me to put the shoes back on, and tie them tight. Then they took a rope and tied my hands to the rear bumper of a car. They said 'this is your last chance, you are going to die, you must run fast after the car.' I did try to run but with the stones under my feet, I couldn't do it. They pulled me for about 55 metres."

As a result of this incident, the entire right side of his body was injured; a **vein** over his right eye was severed, and the scar is still visible. His ankle was injured and his right ear damaged.

He continued to be tortured in this fashion, for about three months. For the first period of seven days, he received no food or water, and was not allowed to sleep.

After three months, he was taken to Pretoria. There they took him to the bush about 30 kilometres away. Again electric shock treatment was administered. Electrodes were put on his wrists, a rope tied around his waist, and a rope in turn hung over a tree branch. Three policemen pulled the rope on one side, while another kept hitting him with a sjambok.

"This other policeman said to me, 'if you are arrested for politics we hang you four times before you die; if you are arrested for a common law crime, you only hang once' ".

He still refused to respond to their questions and the torture continued for another two hours. They did not have enough information and evidence to charge him with any crime, but they said he must give evidence against other people. After three months of this torture and interrogation, he still refused to divulge any information.

He was finally released from detention in July 1977. He left South Africa in January 1978.

DR. NABOATH MZIKAYISE NTSHUNTSCHA (Age 42)

Dr. Ntshuntsha was a herbalist and was arrested on 14 December 1976, in terms of Section 6 of the Terrorism Act. He was found dead in the Leandra Police Cells on 8 January 1977. An inquest was opened on 15 September 1977.

Police version

Lieutenant Piet Kruger was in charge of interrogation.

Adjutant Officer J. Mare said that on the afternoon before his death he had been friendly, had no problems and acted normally.

Major J. N. Cronje, of the Springs Security Police, said that he had made no complaint on the day before his death.

Constable A. S. P. Van Vuuren said that he found Ntshuntsha hanging behind his cell door on the morning of 9 January. The night before he had been in a genial mood. During the preceding three days he had been interrogated by the Security Police.

Medical evidence

Professor J. J. F. van Jaarsveld, State Pathologist, said that he found a small abrasion 1 to 1-1/2mm long near the left temple. He also found three small round 3mm abrasions inside the left ear and a small abrasion of a different kind on the right ear. There was a 3cm mark on the front of the neck stretching upwards on both sides behind the ears. The marks on the ears could have been caused by electrical contact, burns or "impression contact". He could not be sure how these were caused but was inclined to think that they were caused by "impression contact".

Dr. Jonathan Gluckman, commissioned to represent the family at the post mortem, declined to take part in the autopsy when he found that the body had already been cut by a mortuary attendant policeman. The body had a major incision from throat to groin and another from ear to ear across the top of the skull.

Dr. Gluckman said that he had been appalled to learn that incisions had been carried out without a doctor being present. He considered this contrary to all recognized conduct in mortuaries and infinitely more so in cases of unnatural death. He said that in a lifetime of practising pathology, he had never heard of such a practice. He gave his reasons for declining to take part:

- (i) any interference of such a nature might well have altered appearances in the regions of the incisions;
- (ii) the top of the main incision was such as to make impossible the special dissection of the neck which is mandatory in cases of this nature;
- (iii) he was in no position to know the exact nature of the incisions, not having been present.

He therefore considered it was impossible for him to carry out a thorough and complete examination, and rather than give an incomplete report, decided not to take any part in the dissection. Any conclusion that he might have drawn, would have been based on features which may have been masked and would therefore be unreliable.

Result of Inquest

Mr. J. C. Maritz, the inquest magistrate, found that death was due to hanging, probably suicide.

Some remarks

- 1) Dr. Ntshuntsha had been in detention for twenty-five days, but there is complete police silence as to whether he had made any incriminating disclosures.
- 2) Strangely, no motive for suicide is suggested.
- 3) No attempt is made to explain the injuries which indicate torture by electrical shocks.
- 4) Prima facie, three days of continuous interrogation killed him and a suicide was faked.

MAFIKE ELMON MALELE (Age 50)

Mr. Malele was a former member of the African National Congress. He was arrested with his son Mogotoko, on 10 January 1977, shortly after an explosion at a Pimville house. Mrs. Malele was also in detention. He died on 20 January 1977. An inquest was held in July 1977.

Police version

Captain Arthur Cronwright said that Malele was detained under Section 6 of the Terrorism Act. He was interrogated at John Vorster Square on 12 January from 9 a.m. to 3 p.m. He had been kept standing. Interrogation stopped when he grimaced and groaned. He fell forward on to the side of a table, hitting it with his head. He fell unconscious on his back and froth came from his mouth.

He was transferred to the Princess Nursing Home, Johannesburg, where he died seven days later. (Actually he died eight days later).

Medical evidence

Dr. N. J. Scheeper, who conducted the post mortem on 21 January 1977, said he found Malele had a fractured rib, estimated to be at least a week old. He had a brain haemorrhage which was the cause of his death, and a haemorrhage on the right muscle.

Dr. Scheeper could not find evidence of trauma as the **cause** of the brain haemorrhage.

Dr. D. E. Rosenberg, neuro-surgeon, said when he first saw Malele at the hospital, puncture wounds and abrasions were present on his scalp which he estimated to be about two or three days old.

Professor J. Taljaard, State pathologist, stated that in his opinion, the puncture wounds and abrasions could have been older than a week.

Result of inquest

P. W. Dormehl, the inquest magistrate, found that Malele died of hypertension and spontaneous intra-cerebral haemorrhage. Nobody was to blame.

Some remarks

- 1) The police evidence does not explain all the injuries though the attempt to do so is evident.
- 2) It is very significant that Malele was transferred to the white Princess Nursing Home where no friend or relative was likely to see him or his condition.

AGNES MANYAKA (Age 21)

Miss Manyaka was arrested in January 1977, at her home in Germiston, Transvaal. She was tortured on three distinct occasions by several policemen. The only policeman she is able to identify is Lieutenant Radebe.

On the day after her arrest, from about 3 p.m. until about 6 a.m. the following morning, she was in a room at the police station and was assaulted by being struck with fists and batons and being kicked with shod feet on all parts of her body.

On the following day, she was taken into the bush some 40 kilometres from the police station and there she was hung from a tree by a rope made from cowhide until she lost consciousness. When she regained consciousness, she was whipped repeatedly with a 1 metre long whip made from hippo (hippopotamus) tail.

On the third occasion, electrodes were affixed to the small fingers of both hands which were handcuffed at her back. Her head was covered with a canvas bag. She was then subjected to shocks.

After her release from detention, she escaped from the country.

MATTHEWS MARWALE MABELANE (Age 23)

Matthews Marwale Mabelane was a former pupil of the Madibone High School, Diepkloof. He participated in the Soweto protests, and fled South Africa during the post-Soweto arrests. While re-crossing from Botswana back to South Africa on 27 January 1977 he was arrested. He died on 15 February 1977. An inquest was held on the next day. Police believed he was a right-hand man of the student leader, Tsietsi Mashinini, and had played a prominent part in the student protests. His arrest coincided with police-inspired press reports that underground cells ferrying young activists to Botswana had been smashed. He was believed to have received activist training.

Police version

Major General W. H. Kotze, Divisional Commissioner of Police, said he was being interrogated in a room with an un-barred window on the tenth floor at Security Police headquarters, John Vorster Square, Johannesburg, by Warrant Officer D. Jordaan, Warrant Officer Viljoen, and Detective Sergeant I. Cilliers, at about 9 a.m. on 15 February. Warrant Officer D. Jordaan left the room to answer a telephone call. A moment later, Mabelane jumped on to a chair, forced the window open, climbed on to a 130cm furrowed ledge that ran alongside the north side of the building and was walking on the ledge. The police were unable to stop him but called to him to come back. As he looked back he lost his balance and fell to his death. Senior police officers do not believe that he was attempting suicide when he went through the window. The other police officers in the room were taken by surprise. Mabelane had been sitting calmly at a table moments earlier.

Medical evidence

No medical evidence appears to have been given at the inquest.

Result of inquest

Mr. W. P. Dormehl, the inquest magistrate, found that Mabelane fell accidentally and died of the multiple injuries he sustained as a result of the fall. No person was to blame.

Some remarks

- 1) It is probably correct that Mabelane climbed out of the window, walked along the ledge and fell to his death. Any passer-by might have seen this.
- 2) A passer-by might also have seen the policemen at the window. He could not have heard whether Mabelane was being called back or told to go further.
- 3) The magistrate did not address himself to the reason why Mabelane climbed out of the window. It would be absurd to suggest that he attempted to escape through a window of the tenth floor of a building. There is no suggestion of an attempted suicide. There is a strong and in the circumstances, irresistible inference that he was forced to climb out of the window while he was being tortured.
- 4) No medical evidence was submitted at the inquest. It does not appear that a post mortem examination was carried out. The inquest court had no information before it as to whether any injuries were present on the body that could have been caused other than by the fall, or earlier than the time of the fall.

5) The speed with which the inquest was disposed of is extremely significant. The family could not engage a pathologist or retain counsel. On this score alone the innocent explanation of how he came to be on the ledge and his accidental fall becomes unacceptable.

ELIAS TSIMO

Mr. Tsimo was arrested on 12 December 1976 and detained under Section 6 of the Terrorism Act.

He gave evidence for the state in the trial of the "Pretoria Ten". During his evidence, he alleged that he had been tortured in detention. The only policeman that he could identify was Major Cronje.

On 11 and 12 February 1977, he was made to stand for a day and night; his hands were handcuffed behind his back; he was shown a picture of another detainee, Dr. Ntshuntsha, hanging from the grille in a cell; he was severely assaulted with fists and shod feet, and by the jerking of his handcuffs so that:

- (a) his wrists were injured and painful and he was unable to use his left hand for three months thereafter;
- (b) he had sustained cuts on his tongue and the inside of his cheeks.

He was subjected to electrical shocks; and he was held in solitary confinement.

CASE NO. J

THE ACCUSED: WESTERN CAPE DIVISION, SECURITY POLICE, CAPE TOWN

COLONEL A. B. CONRADIE

MAJOR LOURENS

MAJOR A. J. VAN NIEKERK

MAJOR SWARTS

LIEUTENANT M. L. SEKSKANE

SERGEANT CAREL A. STEENKAMP

SERGEANT J. D. DE VILLIERS

CONSTABLE D. C. MBULA

? MBO

PARTICULARS

<u>CHARGE</u>	<u>DATE</u>	<u>VICTIM</u>	<u>WITNESS</u>
Murder	2.9.1976	LUKE STORY MAZWEMBE	1) Inquest record 2) Dr. G. J. Knoebel
Murder	25.5.1977 to 1.8.1977	ELIJAH NKWENKWE LOZA	1) Mrs. G. Loza 2) Miss Ethel Loza

LUKE STORY MAZWEMBE (Age 32)

Mr. Mazwembe was a full time member of the Western Province Workers Advice Bureau in Cape Town. He was arrested at his home in Guguletu, Cape Town, on 2 September 1976. He was found dead in a police cell later the same day. An inquest was commenced on 11 November 1976 and ended on 25 June 1977.

Police version

Major A. J. Van Niekerk, who was in charge of investigation said that he had sent Sergeant J. D. De Villiers, Lieutenant M. L. Sekakane and Constable D. C. Mbula to arrest Mazwembe.

Mazwembe had not been assaulted by the police. African National Congress and the South African Students Organization had instructed their members to commit suicide when in detention.

Detective/Sergeant J. D. De Villiers said that when he was arrested at his home at 6 a.m. on 2 September 1976, Mazwembe was "healthy and had no wounds." He was detained for questioning on allegations of incitement of urban terrorism.

At 7.40 a.m. on 2 September 1976, his body was found in a corner of a police cell, hanging from the ceiling by a noose constructed of strips of blanket tied together with pieces of twine. A razor blade had been used to cut the blanket into strips and to cut the twine.

Sergeant Carel A. Steenkamp could not explain how the razor blade and twine had got into the cell.

Medical evidence

Dr. Gideon Jacobus Knoebel, State Pathologist, said that the post mortem on the body of Luke Story Mazwembe revealed several wounds on his body, including abrasions on his neck, swelling and bruising of his right **cheekbone**, slight swelling of the lower scrotum, several abrasions over both shoulder blades and abrasions on the left ankle.

Death had resulted from strangulation.

Under cross-examination he said that he could not exclude the possibility that he was killed first and then hanged to fake a suicide. The abrasions on his neck were compatible with both explanations.

Result of the inquest

P. L. May, the inquest magistrate, accepted that Luke Story Mazwembe had not been tortured or assaulted by the police.

He assumed that the twine and the razor blade had been accidentally left in the cell by some person unknown.

The detainee had constructed a rope from the blanket, fashioned a noose and committed suicide by hanging himself.

ELIJAH NKWENKWE LOZA (Age 59)

Mr. Loza was arrested on 27 May 1977 at work, at Paarden Eiland.

He subsequently died.

Police version

On 8 July 1977 a warder found him unconscious in his cell at the Victor Verster Prison. He had apparently suffered a stroke. He was treated by an Orderly at the prison hospital and a district surgeon was telephoned. He was sent to the Tygerberg Hospital for further treatment on 8 July 1977. At first he responded well but subsequently he had a relapse and died on 1 August 1977.

Medical evidence

A post mortem was carried out on 3 August 1977. The pathologist found that he died of natural causes - cerebral haemorrhage. He also suffered a blood clot in a leg which moved up to his lungs. The finding was that death was due to natural causes.

Some additional facts

Miss Ethel Loza, when she visited her father in hospital on **12 July**:

- 1) Saw the hospital report in a folder marked 91013482. It said "he had collapsed in prison and his skull was dead." A nurse removed the folder before she could read further.
- 2) There were bruises and a swelling on his head and he was jerking so violently that he had to be restrained.

3) When she asked him which parts of his body were painful, he pointed to his head, shoulders and private parts.

Major Lourens said he was not prepared to allow private doctors to see Loza in Tygerberg Hospital.

Colonel A. B. Conradie said he would not allow private doctors to see Loza as he was the State's responsibility. The family were allowed free access to see Loza up to 13 July, but on 14 July, and later they were prevented from seeing him. They were told to get permission from Major Swarts.

Major Swarts granted permission on 21 July, providing they only discussed "domestic affairs".

Later the police denied that they had refused to allow treatment by a private doctor and that they had prevented any visits by the family. They instituted legal proceedings against the Rand Daily Mail which had published the story. The Rand Daily Mail defended the action and asserted that it had proof of its allegations. Subsequently, the police withdrew the action.

Security Policeman Mbo informed Mrs. Loza that her husband had been admitted to hospital. He was the person that Major Swarts sent with the family members when they visited Loza at the hospital after he had granted permission. Police later denied that the family members had been refused access to Loza at the hospital, though at the time, Brigadier C. F. Zietsman, refused to discuss the allegation of the family with the Rand Daily Mail's Cape Town correspondent.

Members of the family who had visited Loza at the hospital were his daughters, Ethel Loza and Harriet Loza, and his widow Girlie Loza.

Some remarks

- 1) As no inquest was held, the details of the post mortem examination are not available and medical evidence could not be probed.
- 2) Pain in his head, shoulders and private parts indicate he was tortured.
- 3) His family were not allowed to visit him during his temporary improvement when he could have disclosed the torture.

CASE NO. K

THE ACCUSED: COLONEL T. G. DU PLESSIS

SERGEANT OSCAR NTSIKO

SERGEANT DU PLESSIS

PARTICULARS:

CHARGE: MURDER

DATE: 27.6.1977 to 7.7.1977

VICTIM: PHAKAMILE HARRY MABIJA

WITNESS: 1) INQUEST RECORD
2) MRS. DORA MABIJA
3) MISS SYLVIA MABIJA

PHAKAMILE HARRY MABIJA (Age 27)

Mr. Mabijs was a full-time youth worker for the Anglican Church at Kimberley. He was the Kimberley church warden of the parish of Saint James. He was arrested on 27 June 1977 and died on 7 July 1977. An inquest was held commencing on 1 August.

Police version

He was arrested by Colonel T. G. du Plessis in connection with a stone-throwing incident during the bus **boycott** in Kimberley which began on 16 June 1977. He was interrogated by a team which included:

Colonel Du Plessis

Sergeant Oscar Ntsiko

Sergeant Du Plessis

In the course of the interrogation, he was taken by Colonel du Plessis, Sergeant Ntsiko and other policemen to his home to find certain documents. They returned without finding the documents. On 7 July, during interrogation in an office on the sixth floor of the SEcurity Police headquarters in Kimberley, he was taken to the toilet by Sergeant Ntsiko. As he was returning, he broke away and ran through an open door into the office **occupied by** Sergeant du Plessis and a Mr. N. van der Merwe, and leapt out of an open window. The window had been opened to allow fresh air into the room. He had not been threatened or assaulted. Colonel du Plessis said that a document in his own handwriting read "How can I respond to a world which defines me as a non-person - we cannot commit suicide, we have to fight to the death". Colonel du Plessis went on to say that he was already a sorry man. He was sorry for what had happened on the night the buses were stoned.

Medical evidence

Dr. T. C. Robertson, District Surgeon of Kimberley, said Mabiya had died of a fractured skull.

Dr. A. B. Maher, a pathologist retained by the family, said there were numerous lacerations on the face, hands and the liver. The lacerations could have been caused by assaults before his death or by the impact of his fall or partly by each.

Other evidence

Mrs. Dora Mabiya, the mother of the deceased, told the inquest court that as they were leaving the house after failing to find the documents, a white police officer told Mabiya, in the presence of her daughter Sylvia and herself, "...say goodbye to your family, you will not see them again." This was corroborated by Sylvia.

Colonel de Plessis (corroborated by Sergeant Ntsiko) denied that he had made such a statement.

Result of inquest

Mr. J. H. Booysen, the inquest magistrate, accepted the police version and found that death had resulted from the injuries sustained as a result of the fall and no one was to blame.

Some remarks.

- 1) The police alleged that Mabiya was a member of the African National Congress
- 2) Other evidence disclosed that the window through which he allegedly jumped was the only one where the protective screens had been unlocked and opened in the entire building.

CASE NO. L

THE ACCUSED: CONSTABLE G. N. DAVIS

CONSTABLE BAREND JACOBUS DE KLERK

PARTICULARS:

CHARGE: MURDER

DATE: 23.3.1977

VICTIM: BHEKINDOLA JAMES NTOMBELA

WITNESS: 1) INQUEST RECORD

 2) MNUEZELI THUSI

BHEKINDOLA JAMES NTOMBELA (Age 38)

Mr. Ntombela died on 23 March 1977. An inquest was held in November 1977.

Police version

Constable Barend Jacobus de Klerk, told the court that he went with other policemen to Bon Vista Flats, Hillbrow, Johannesburg. When he got to the fifth floor, he saw Mr. Ntombela, the night-watchman of the building, running down the stairs with Constable G. N. Davis behind him.

Mr. Ntombela lost his balance, fell down eight steps and lay still. He was taken to hospital and certified dead on arrival.

Other evidence

Mr. Mnuezeli Thusi, a flat **cleaner**, said that a group of policemen came into the flat in which he, Ntombela and others were sitting. The policemen told Ntombela to stand up. One kicked him in the ribs, then kicked him many times in the stomach and also hit him in the face. Mr. Ntombela fell. The policeman pulled him down a flight of stairs.

Medical evidence

Professor J. J. F. Taljaard, State pathologist, who conducted the post mortem examination, told the court he found the cause of death to be a rupture of the large blood vessels. This was consistent with a blow to the abdomen by a heavy object "more consistent with a kick in the stomach than a fall down the stairs". Ntombela had no bruises. Professor Taljaard said if Ntombela had

only fallen down the stairs it was unlikely that he would have had this injury.

Result of the inquest

Mr. W. P. Dormehl, the inquest magistrate, adjourned the inquest indefinitely on 8 November 1977. Unexpectedly he resumed the inquest on the following day, 9 November 1977, and delivered his finding that nobody was to blame for Ntombela's death.

CASE NO. M

THE ACCUSED: SERGEANT MATTHEW MOKOME
CONSTABLE SIMON NORAMUNDI

PARTICULARS:

CHARGE: MURDER
DATE: 26.3.1978
VICTIM: PHINEAS MTHEMBU
WITNESS: 1) INQUEST RECORD
2) ENOCH RASEFATE

PHINEAS MTHEMBU (AGE 36)

Phineas Mthembu was shot in Alezandra Township on 26 March 1978.
An inquest was held in August 1978.

Medical Evidence

He died of bullet wounds and haemorrhaging of the right lung.

Police Version

Sergeant Matthew Mokome and Constable Simon Noramundi, Inspectors of the West Rand Administration Board, were travelling in Alexandra Township when they were confronted by a mob. Their lives were in danger and they had to open fire. The deceased was hit. They had received no injuries.

Other evidence

Enoch Rasefate, an eye witness, told the court that about a hundred people were there. Nobody was armed. They did not even have sticks or stones.

Result of the Inquest

J. van Reenen, the inquest magistrate found that no one was to blame for the death.

CASE NO. N

THE ACCUSED: CAPTAIN M. CONRADIE

DETECTIVE SERGEANT HAMMAN

CONSTABLE MOLOKOANE

PARTICULARS:

CHARGE: TORTURE

DATE: 4.1.78

VICTIM: LUCAS MASOMA

WITNESS: THE VICTIM

LUCAS MASOMA (Age 23)

Mr. Masoma was arrested on 4 January 1978 on charges of housebreaking and dealing in drugs.

On the day of his arrest and at an unidentified police station, he was tortured by:

Captain M. Conradie

Detective/Sergeant Hamman

Constable Molokoane

His hands and feet were bound. His head was covered with a sack fastened to his neck. His bound hands were drawn over his knees. A broomstick was inserted between the back of his knees and his wrists. He was suspended, head down, between two tables by the broomstick. The sack was doused with water. Thereafter, he was assaulted with fists and booted feet.

CASE NO: XA

THE ACCUSED: MAGISTRATE T. L. BLUNDEN

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: MARCH 1978

VICTIM: HOOSEN MIA HAFFEJEE

WITNESS: 1) INQUEST RECORD
2) MR. D. H. BIGGS
3) MR. THEO G. LORENTZ

(See Case "B" above)

CASE NO. XB

THE ACCUSED: MAGISTRATE X. ODENDAAL

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: 13.12.1977 to 7.2.1978

VICTIM: BAYEMPINI MZIZI

WITNESS: INQUEST RECORD

(see Case "B" above)

CASE NO. XC

THE ACCUSED: MAGISTRATE A.J. SWART

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: 17.1.1977 to JULY 1977

VICTIM: FRANK MAPETLA MOHAPI

WITNESS: 1) INQUEST RECORD
2) MR. ALLARDICE
3) DR. MAMPHELE RAMPHELE
4) MISS THENJIWE MTINTSO

(see Case "F" above)

CASE NO. XD

THE ACCUSED: MAGISTRATE J.A. COETZEE

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

COUNT I { DATE: MAY 1977

{ VICTIM: GEORGE BOTHA

{ WITNESS: 1) INQUEST RECORD

2) DR. G.J. KNOEBEL

COUNT 2 { DATE: OCTOBER 1978

{ VICTIM: LUNGILE TABALAZA

{ WITNESS: 1) INQUEST RECORD

2) DR. LEENDERT VON IEPERIN

(see Case "F" above)

CASE NO. XE

THE ACCUSED: MAGISTRATE W. DE WAAL LUBBE

PARTICULARS:

CHARGE: Directly abetting, etc., TORTURE

DATE: 10.7.1978

VICTIM: LUNGILE TABALAZA

WITNESS: INQUEST RECORD

(see Case "F" above)

CASE NO. XF

THE ACCUSED: MAGISTRATE MARTHINUS PRINS

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: NOVEMBER/DECEMBER 1977

VICTIM: STEPHEN GANTU BIKO

WITNESS: INQUEST RECORD

(See case "F" above)

CASE NO. XG

THE ACCUSED: MAGISTRATE W. P. DORMEHL

PARTICULARS:

CHARGE:

COUNT 1

DATE: 16.2.1977
VICTIM: MATTHEWS MARWALE MABELANE
WITNESS: INQUEST RECORD

COUNT 2

DATE: JULY 1977
VICTIM: MAFIKE ELMON MALELE
WITNESS: 1) INQUEST RECORD
2) DR. N. J. SCHEEPER
3) DR. D. E. ROSENBERG

COUNT 3

DATE: NOVEMBER 1977
VICTIM: BHEKINDOLA JAMES NTOMBELA
WITNESS: 1) INQUEST RECORD
2) MNUEZELI THUSI

(See cases "H" and "L" above)

CASE NO. XH

THE ACCUSED: MAGISTRATE J. C. MARITZ

PARTICULARS:

CHARGE: Directly abetting, etc. MURDER

DATE: SEPTEMBER 1977

VICTIM: NABOATH MZIKAYISE NTSHUNTSHA

WITNESS: 1) INQUEST RECORD

 2) PROFESSOR J. J. F. VAN JAARVELD

(See case "H" above)

CASE NO. XJ

THE ACCUSED: MAGISTRATE P. L. MAY

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: 11.11.1976 to 25.6.1977

VICTIM: LUKE STORY MAZWEMBE

WITNESS: 1) INQUEST RECORD
 2) DR. G. J. KNOEBEL

(See case "J" above)

CASE NO. XK

THE ACCUSED: MAGISTRATE J. H. BOOYSEN

PARTICULARS:

CHARGE : Directly abetting, etc., MURDER

DATE: AUGUST 1977

VICTIM: PHAKAMILE HARRY MABIJA

WITNESS: 1) INQUEST RECORD
2) MRS. DORA MABIJA
3) MISS SYLVIA MABIJA

(See case "K" above)

CASE NO. XL

THE ACCUSED: MAGISTRATE J. VAN REENEN

PARTICULARS:

CHARGE: Directly abetting, etc., MURDER

DATE: AUGUST 1978

VICTIM: PHINEAS MTHEMBU

WITNESS: 1) INQUEST RECORD
2) ENOCH RASEFATE

(See case "M" above)

case no.

CASE NO. XM

THE ACCUSED: MAGISTRATE D. F. SMITH

PARTICULARS:

CHARGE: Directly abetting, etc., TORTURE

DATE:

VICTIM: NORMAN JACOBS

WITNESS: THE VICTIM

(See case "F" above)