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MEMORANDUM

TO : THE PLANNING COMMITTEE OF THE NEGOTIATION COUNCIL

FROM : TRANSVAAL INDIAN CONGRESS / NATAL INDIAN CONGRESS

DATE : 19 MAY 1993

RE : PROPOSALS FOR SUBMISSION TO THE TECHNICAL COMMITTEE ON VIOLENCE

SECTION A - CRIMINAL VIOLENCE

1. CAUSES

- 1.1. Breakdown in law and order coupled with the belief that the police are unable, if not unwilling to combat crime;
- 1.2. Lack of resources/ineffective allocation of limited resources to combat crime;
- 1.3. Worsening socio-economic conditions.

2. MECHANISMS TO COMBAT CRIMINAL VIOLENCE

2.1. AD CAUSE 1.1

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to assist them in the process of combatting crime. Notwithstanding wide powers of arrest, search, seizure, and questioning of suspects a perception still exists that "the criminals are getting away with murder". What is needed are local initiatives which involve all players in the community ranging from representatives of educational and religious institutions, community organisations and civics, local authorities and welfare agencies to representatives from the criminal justice system. In the past police and community liaison has been limited to very few interest groups and have in any event been ineffective given the domination by the South African Police in such a process.

We therefore propose that all the interest groups referred to above come together to form local anti-crime coalitions that would be charged firstly, with the responsibility of monitoring whether the law and order machinery is working as effectively as it can and also initiate legitimate programmes to educate the community on crime prevention techniques which would ensure that ordinary citizens do not become soft targets for criminals. We are of the view that a crime prevention network which enables various sectors of the community to become committed in the process of crime prevention would empower the community in their quest to encounter criminal opportunism.

Such an anti-crime coalition, secondly, will also ensure police accountability in community-police consultations in that local communities could ensure that

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their respective communities will be kept informed of all developments pertaining to an investigation into an act of criminal violence. This would promote trust between the police and the community in that there would be greater transparency and appreciation of progress made with regard to investigations into specific criminal acts as well as general measures to combat criminal violence. Such an anti-crime coalition would promote understanding of the constraints, pressures and expectations of both the police and the community. It would develop a commitment to jointly solve the problems regarding crime in a community. And more fundamentally it enables a community to feel that it has some control over the criminal justice system.

Finally, such a coalition could also play a pro-active role with regard to organising self-defence classes, creating an awareness of what to do once victimised, liaising with the various authorities with regard to orientating our physical surroundings to reduce the opportunity of crimes eg. lobbying for greater street-lighting, public telephones, crime-lines, etc.

2.2. We further propose the incorporation of lay citizens in the actual process of maintaining law and order. However, over the last few months we have seen the growth of neighbourhood watches as well as self-defence units. Whilst these initiatives are useful in that it increases the human resources available to combat crime the negative feature is that, if left to their own such formations could actually result in escalating the incidence of violence. Such

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citizen forces should at all times be accountable to and be supervised by an independent body so that they are guided at all times. Recent suggestions of youth peace brigades who are under the command of an envisaged joint security force has our fullest support.

2.3.

**AD PARAGRAPH 1.2**

In the past the debate around the resource required to combat crime have focused essentially on the role of policing. We are of the view that we should creatively look at other avenues to resolve crime which may require resources that are within our means. Crime cannot be combatted by simply only instilling a fear for being apprehended by the police. Instead crime can also be prevented by reducing the opportunity for crime. In this regard the need for neighbourhood surveillance programmes, footpatrols, etc are important and so to are environmental factors such as more street lighting, the setting up of more satellite police stations, etc.

2.4.

**AD PARAGRAPH 1.3**

Statistics have shown that in South Africa the majority of criminal offenders are persistent offenders. This can be directly attributable to factors such as inadequate education, child poverty, lack of appropriate housing, lack of employment, etc. It therefore becomes clear that more extensive interventions

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are required. Programmes for job creation, stimulating economic growth, providing adequate housing and education is paramount. Such initiatives need to be comprehensive, addressing not only the symptoms, but the root causes of crime.

### 3. GENERAL COMMENTS

3.1. An important factor that would assist in combatting crime would be to accelerate the negotiation process towards a democratic South Africa. This would reduce the prevailing anxiety and give all South Africans an opportunity to focus their attention towards reconstructing a society that would alleviate some of the socio-economic root causes of criminal violence.

3.2. Whilst the above has focused on mechanisms to combat crime, on the other hand it should not be forgotten that the rights of the accused should also be protected at all times. There has already been a tendency to cut back on rights and privileges that an accused had previously enjoyed. Hence the creation of a category of special offences in terms of which bail cannot be granted, is a regressive step. In our eagerness to combat crime, we should ourselves not act in a way that disregards an accused's/suspect's legal rights.

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**SECTION B - POLITICAL VIOLENCE**

1. **CAUSES**

- 1.1. Political rivalry and fear of losing political support and/or dependency that the negotiation process will not yield the desired party political results;
- 1.2. Lack of control by political formations of their rank and file members;
- 1.3. Impatience with the negotiation process and uncertainty of the future;
- 1.4. The existence of disparate armed formations;
- 1.5. Deteriorating socio-economic conditions;
- 1.6. The improper conduct in the course of investigating and/or lack of capacity by the police to effectively investigate acts of political violence.

2. **MECHANISMS TO COMBAT POLITICAL VIOLENCE**

2.1. **AD PARAGRAPHS 1.1 AND 1.2**

There is no need to reinvent the wheel. Several processes are already

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underway and what should be considered by the parties in the negotiation process is how we could improve the workings of these mechanisms. In this regard we propose that :

2.1.1. parties to the negotiation process immediately sign the National Peace Accord (NPA);

2.1.2. systems need to be devised to ascertain whether parties to the NPA are implementing the various recommendations made within the NPA framework eg. the Goldstone Commission, Peace Committees, etc. Presently it appears that parties use the findings and recommendations to score political points rather looking at how peace can be attained. Unless all parties see peace as having intrinsic value and not as a political football, all other attempts to combat political violence will have very little chance of success;

2.1.3. the NPA is informed by a spirit of voluntarism. Whereas criminalisation, therefore, may not be the most appropriate means to ensure compliance, this should not mean that there should be no sanction for non-compliance with agreements and recommendations designed to practically attain peace. In the absence of incentives for self-sanction, we suggest that the international community could play a vital role. More particularly we propose that the role of the UN

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monitors be enhanced to include meeting with and enquiring from the respective parties what they have done or are doing to ensure compliance with agreements and recommendations that emanate from the NPA and its structures. Furthermore, the subject matter of these meetings and inquiries should form part of the UN Secretary General's monthly report. It is our view that the international community, notwithstanding its present limited role, is already having a positive effect.

2.2.

**AD PARAGRAPH 1.3**

In this regard we wish to repeat the point referred to in Section A paragraph 3.1.

2.3.

**AD PARAGRAPH 1.4**

The composition of the SAP and SADF is one of the major stumbling blocks to the curbing of political violence. In its present form it does not enjoy the legitimacy of the majority of South Africans. The curbing of political violence is further hampered by the existence of other armed formations and private army. We therefore propose that there be an amalgamation of all police forces under the auspices of the SAP and that such a police force together with the SADF, MK, APLA, the Transkei Defence Force, the

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KwaZulu Defence Force, and all other armed formations be brought together under a single joint command structure. Such a structure should not only be charged with the responsibility of monitoring the activity of all these formations but should also effectively control all these formations as a single entity and with the power to act decisively.

2.4. AD PARAGRAPH 1.5

In this regard we wish to refer to the points contained in Section A paragraph 2.4.

2.5. AD PARAGRAPH 1.6

2.5.1. From the various reports that we have received, we are of the view that the police are :

- (a) either, ill-equipped to combat political violence in that in some police stations telephones are out of order; there are no fax machines, nor vehicles to transport policemen to areas of violence; and at times local policemen are not armed nor do they have bulletproof vests thereby inhibiting their willingness to effectively intervene;

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- (b) or, the manner in which the police investigate acts of political violence reveal a lack of appreciation of the sensitivity of the task they have to perform. In certain areas the internal stability unit has been used with no understanding of local conditions, without liaising with the local police station, and have failed to use local policemen in the process of investigation, alternatively, when such policemen have been used they are used as interpreters for white policemen rather than as investigators of political crimes.

2.5.2.

We therefore propose that :

- (a) local police stations be upgraded, more adequately equipped, that outside units be compelled to report to a local station commander before entering an area, and that all arrests, searches, and seizures be reported to the local station commander, and that the local station commander be further empowered to dutifully perform their task;
- (b) police officers be adequately trained on matters such as debriefing, taking statements, and to be meticulous in their investigation of crimes;

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- (c) when individual police members are accused of a crime, they should be suspended immediately pending the outcome of the investigation. This will help to restore community confidence in the police. Furthermore, we propose that the system of Police Reporting Officers whose function in terms of the National Peace Accord is to oversee investigations into alleged police misconduct and crimes itself be supervised by an independent body;
- (d) the use of monitors needs to be enhanced. Presently local monitors are not taken seriously by the South African Police and the authorities. Due to this lack of power they are less effective when it comes to taking up issues. As regards foreign monitors/observers we are of the view that those with specialist and expert skills have proven to be most effective. Of particular use are those people trained in conflict resolution, people who are involved in the police force, experts in forensic science, private investigators etc. This factor should therefore be considered when appointing such monitors/observers in future. In addition input from the community may be advisable with regard to identifying further important tasks that monitors could perform;

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(e) greater use should be made of satellite police stations to ensure greater accessibility and to ensure effective and timeous action on the part of the police.

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