

ing the third-degree situation. He is selected by the Legal Aid Society, works under the direction of its committee, and is paid out of the Community Chest. Although not a public official, he is given free access to the cells by the police.

CLEVELAND

In Cleveland, unlike Cincinnati, the third degree is prevalent. A judge reported that it was practiced constantly by the Cleveland police, and a former prosecutor said, "You can't overstate it."

Prolonged relay questioning is employed, with loss of sleep and deprivation of food and drink. Sometimes the prisoner is kept standing, clear of a wall, for many hours during the interrogation. If the prisoner starts to fall asleep while on his feet, he is wakened by slaps in the face. The questioning may also be accompanied by violence.

There is evidence of the beating of prisoners over the kidneys and in the soft hollows above the hips with a weapon such as a rubber hose or a sausage-shaped sandbag made of silk, these instruments being chosen because, when properly applied, they leave no marks. It is said that the prisoner is frequently struck from behind so that he may not see the person who hit him, and as a result will be unable to identify him in court.

Among many specific cases reported to us by responsible authorities, these may be cited:

About six years ago Francis E. ("Mack") Bush was arrested for bank robbery. In a room at the old Cleveland headquarters he was questioned, severely beaten, and finally stripped, laid flat upon the floor, and lifted by his sex organs—not once but several times. The object was to make him tell where money taken in the robbery was concealed, of which he denied knowledge. Participating in this third degree were a private bank detective, a detective from Lakewood (a suburb where the bank was located), and a Cleveland detective who is still on the force. Bush was later convicted, and endeavors have lately been made to obtain his parole because of the inhuman way he was treated.

Charges were brought before the Cleveland Grand Jury, which failed to indict the police—by a narrow margin, it is understood.

Tony Colletti, aged 18, was arrested on August 2, 1930, after his bride had been found murdered. After 26 hours of severe grilling and abuse he signed a confession. He was then given medical treatment by a police night nurse and a police doctor, and his injuries were also examined by a former prosecuting attorney and two deputy sheriffs. To all of these persons he complained of the beatings. His circumstantial written statement to his attorney describes almost continuous questioning, prolonged standing, deprivation of food and water, repeated striking, beating with what he thought was a rubber hose but which may have been the type of sandbag already mentioned. The police medical record reports "bruises left and right hips" and notes his complaints of beating. The former prosecutor also describes these bruises, which so impressed him that he showed them to the deputy sheriffs.

The case against Colletti rested on his confession, which he repudiated. Colletti's attorney (assigned by the court) became aroused at the treatment and planned to expose the practices at the trial, with five witnesses and the medical record to corroborate the boy. He made no secret of his intention.

But he did not carry it out. On the day the trial was to open Colletti was found dead in his cell, hanging by a short belt to a pipe some distance over his head. His cell mates reported that he had committed suicide.

To these cases perhaps should be added a case that came to the attention of the Ohio Court of Appeals in 1927—*Kosienski v. State*.⁶⁷ In that case the accused was an illiterate Pole who could hardly speak English. He contended that his confession had been obtained by the following method: That he had been beaten by several Cleveland

⁶⁷ *Kosienski v. State*, 24 Oh. App. 225, 157 N. E. 301 (1927). It should be pointed out that the way in which the case came up gave the Appellate Court no occasion to pass upon the truthfulness of the charges of brutality. The exclusion of the testimony at the trial likewise prevented the prosecution from contradicting the charges.

police officers on the way to the police station in order to make him confess and that more violent treatment awaited him at the station, beating and kicking, during a grilling of 25 or 30 hours, after which he confessed, through fear of worse if he refused. The Trial Court declined to permit the accused to introduce evidence of the matter in which his confession had been obtained, and for this reason the Court of Appeals reversed the conviction.

There are also illegal detentions, and it is said that in many cases suspects are held for several days without being charged—that they are hidden away in outlying stations and their attorneys are misled as to their whereabouts. During this period opportunity occurs for the practices described.⁶⁸

DETROIT

Michigan has no statute punishing the third degree as such. There is a statute⁶⁹ requiring the officer who arrests a person without a warrant to inform him of the cause of the arrest and a statute⁷⁰ ordering the police officer who has made such an arrest to take the prisoner before a magistrate "without unnecessary delay." The Supreme Court of Michigan has said that it is the duty of the arresting officer to produce his prisoner in court as soon as possible, and that a prosecuting attorney may not authorize delay.⁷¹

In Detroit there is some third degree practiced. At the same time it seems to be limited, and no instances have come

⁶⁸ Charges of third degree and other brutality reported in recent newspaper articles are:

Cleveland Plain Dealer, Nov. 27, 1930. Erskine Evans charges that police beat him with a rubber hose to obtain confessions. Finally acquitted after three trials. On the first two trials, the judge said that the disagreement was due to the credence the jury put in the defendant's allegations of third degree.

Cleveland News, Dec. 5, 1930. James Deisanter told of beating given him with rubber hose for two and one-half hours by two detectives. Warned to tell the truth "or we will start all over." His heavy eyeglasses taken from him until he confessed.

Cleveland Bystander, Dec. 22, 1930. Common Pleas Judge Silber writes to Safety Director Barry demanding investigation of alleged brutality because of frequent allegations in court of Cleveland police beating prisoners. Director Barry and Chief Matowitz vigorously deny the charges.

⁶⁹ 3 Compiled Laws Mich. (1929) sec. 17153.

⁷⁰ *Ib.* sec. 17147.

⁷¹ *Linnen v. Banfield*, 114 Mich. 93, 72 N. W. 1 (1897); *Oxford v. Berry*, 204 Mich. 197, 212, 170 N. W. 83 (1918). See also *Malcolmson v. Scott*, 56 Mich. 459, 23 N. W. 166 (1885).