

FEDERAL BUREAU OF INVESTIGATION  
FOI/PA  
DELETED PAGE INFORMATION SHEET  
FOI/PA# 1417740-0

Total Deleted Page(s) = 72

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Page 7 ~ Duplicate;  
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Page 194 ~ Duplicate;  
Page 195 ~ Duplicate;  
Page 196 ~ Duplicate;

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X For this Page X  
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44A-CG-78234-67

SEARCHED	INDEXED
SERIALIZED	FILED
AUG 25 1992	
FBI - CHICAGO	
[Signature]	

--11--

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription 8/25/92

The below-listed records were received on August 21, 1992, through interoffice mail from Assistant United States Attorney [REDACTED] pursuant to a Federal Grand Jury subpoena served to [REDACTED] by Special Agent (SA) [REDACTED] on [REDACTED]  
[REDACTED]

b3 -1  
b6 -1,-3  
b7C -1,-3

A review of these records on August 24, 1992, disclosed the following information:

b3 -1,-2  
b6 -2,-4  
b7C -2,-4

Investigation on 8/24/92 at Chicago, Illinois File # 44A-CG-78234

by SA [REDACTED] TLA:rcb Date dictated 8/24/92 b6 -1  
b7C -1

44A-C9-78234-68

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 19 1993	
FBI - CHICAGO	
WJ	

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

1/15/93

[REDACTED] telephone  
[REDACTED] provided a copy of the civil rights complaint  
filed on behalf of his client [REDACTED] complaint number,  
[REDACTED] The complaint which was hand delivered to the  
FEDERAL BUREAU OF INVESTIGATION office is attached and made a  
part hereto.

b3 -2  
b6 -2,-5  
b7C -2,-5

[REDACTED]  
[REDACTED]

b3 -2  
b6 -2  
b7C -2*Suit*

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Investigation on 1/14/93 at Chicago, Illinois File # 44A-CG-78234-68by SA [REDACTED] B Date dictated 1/15/93b6 -1  
b7C -1

gft7/ji-wilssupp.2

IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF ILLINOIS RECEIVED  
EASTERN DIVISION

ANDREW WILSON, ) JUN 12 1990  
                  )  
Plaintiff,       ) H. STUART CUNNINGHAM  
                  ) UNITED STATES DISTRICT COURT  
vs.               ) No. 86 C 2360  
                  )  
CITY OF CHICAGO, et al., ) Judge Brian Barnett Duff  
                  )  
Defendants.      )

CORRECTED AND VERIFIED SUPPLEMENTAL FILING  
IN CONFORMANCE WITH DIRECTION OF DISTRICT COURT

Pursuant to the District Court's direction of July 13, 1989, plaintiff Andrew Wilson hereby files the following attached materials. Said materials are the same as those materials filed on May 2, 1990, except for Document #5, page 1, in that counsel inadvertently filed a second copy of Document #1, p.1, mismarked as Document #5, p.1, rather than the actual Document #5, p.1. In this corrected filing counsel has substituted the actual Document #5, p.1 as described in paragraph #5 below, this being a true copy of the actual letter received by counsel in the Police Department envelope postmarked 3/15/89. These materials are:

- #1) First Letter from anonymous police source, and envelope in which it was enclosed, postmarked February 2, 1989;
- #2) Advertisement dated February 7, 1989, placed in Southtown Economist in response to First Letter, and Invoice for Ad;

- #3) Second Letter from anonymous police source, and envelope in which it was enclosed, dated March 6, 1989;
- - #4) Second Southtown Economist Ad, dated March 14, 1989;
- #5) Third Letter from anonymous police source and envelope in which it was enclosed, postmarked March 15, 1989;
- #6) Phone message, dated March 15, 1989 from anonymous police source;
- #7) Fourth Letter from anonymous police source, and envelope in which it was enclosed, dated June 16, 1989.

Respectfully submitted,

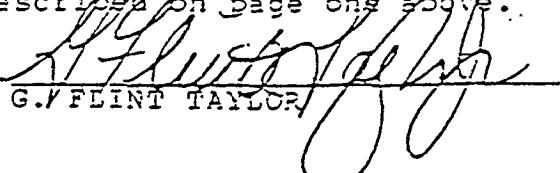
Dated: June 12, 1990

  
G. FLINT TAYLOR  
JOHN L. STAINTHORP  
JEFFREY H. HAAS  
343 S. Dearborn #1507  
Chicago, IL 60604  
(312) 653-5046

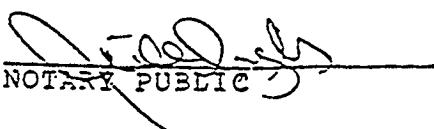
Attorneys for Plaintiff

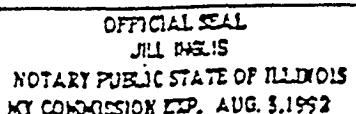
VERIFICATION

I, G. Flint Taylor, on oath, do hereby verify that the attached documents are true and accurate copies of what they purport to be, as more fully described on page one above.

  
G. FLINT TAYLOR

SUBSCRIBED AND SWORN TO  
before me this 12th day  
of June, 1990.

  
NOTARY PUBLIC



Mr. Flint Taylor:

I understand you all are representing Andrew Wilson in his civil action against several police officers for brutality.

Check the following:

Several witnesses including the White's were severely beaten at 1121 S State St in front of the Chief of Detectives, the Superintendent of Police and the State's Attorneys.

Mayor Byrne and States Attorney Daley were aware of the actions of the detectives. ASA Angarola told both of them and condoned the actions.

Several of the officers named in the suit had been previously accused of using torture machines at complaints given to CPS and in motions filed in Criminal trials.

The device was destroyed by throwing it off of Lt. Burge's boat.

Mayor Byrne and States Attorney Daley ordered that the numerous complaints filed against the police as a result of this crime not be investigated.

This order was carried out by an DPPS investigator named Buckley who is close to Alderman Burke.

You should interview everyone assigned to Area 2 Violent Crime at that time because some of them were disgusted and will tell all. The torture was not necessary.

Russ Ewing of Channel 7 was investigating this matter and you should talk to him.

DO NOT SHOW THIS TO ANYONE. IF YOU WANT MORE PUT AN AD IN THE SOUTHTOWN ECONOMIST. YOU DO NOT HAVE PERMISSION TO SHOW THIS TO ANYONE IT IS PRIVILEGED.

BEST COPY AVAILABLE

Doc #1

2 FEB  
1949

People's Law Office  
Mr. Flint Taylor  
343 S. Dearborn St  
Suite 1607  
Chicago, Ill. 60604

D03 #1  
P.2



daily

# SOUTHTOWN

economist newspapers

Community Newspapers, Inc.

South Harlem Avenue • Chicago • 60638  
566-8300

TRADE PAPER HERALD INDEX

SPECIAL MESSAGE

MAIL PAYMENT TO: SOUTHTOWN ECONOMIST, INC.  
Lock Box #09012  
CHICAGO, IL 60609

## CLASSIFIED ADVERTISING INVOICE

ITEM	CLASS	ITEM NUMBER	ITEMS	ITEMS	ITEM
T721950	FURTHER INFORMATION	011 013	02/05/59	2 5	TOTAL DUE \$

DAILY SOUTHTOWN ECONOMIST, B - SOUTH EXTRA, C - CHICAGO EXTRA, E - SOUTHWEST EXTRA,  
FRANKFORT/MORRISON/NEW LENOX, A - DAILY CALUMET & POINTERS, F - CALUMET DAY

RECORDED  
TOWN  
ER AX XXXX  
PER MXXX  
SER XXXXX  
MANAGER  
PER XXXX

ADVERTISING NUMBER  
2716031312

RETAIN FOR YOUR RECORDS

TAYLOR, G. FLINT  
4440 N. HERMITAGE

CHICAGO IL 60640

SEARCHED  
SERIALIZED  
INDEXED

BEST COPY AVAILABLE

Doc #2 p.2

19-cv-4048(FBI)-708

BEST COPY AVAILABLE

M. Taylor:

Your ad in the newspaper was a little to obvious. Before I tell you anymore I need to know if anyone will ever see these letters.

Would you place another ad in the personal column and answer the following questions.

Address the ad to TY

1. Will the letters even be shown to anyone other than you and the other attorney's in your law firm? Yes or no.

2. Will the letters ever be referred to in court or in depositions? Yes or no.

I believe that I have learned something that will blow the lid off of your case. You should check for other cases which Lt. Burge was accused of using this devices. I believe that he started right after becoming a detective many years ago. I will not give any specifics until I am assured that these letters are not going to be used ever.

I have checked who was in Area 2 when this was going on and have some comments on the people assigned. You must remember that they all knew as did all of the State's Attorneys and many judges and attorneys in private practice.

Burge's lackwicks

Sgt Jack Byrne (his main man-Check his IAD record)

Det George Basile (his close friend)

Det Pete Dignan

Det Frank Glynn

Det Fred Hill (his informant get him a police job at 26th St)

Det John Paladine

Det John Yucatius

Weak links

Sgt Frank Lee (Went to Area 3 to get away from Burge)

Sgt Joe Nolan (Burge dumped him)

Sgt Mike Loko (He and Burge constantly were arguing and backstabbing each other)

Sgt Tom Ferry (Burge dumped him)

Sgt Tom Bennett (an attorney and he and Burge broke up with some anger)

Det Ray Binkowski (talks alot)

Det Doris Byrne

Det Robert Budak

Det Pat Kickey (Burge hated her because she was a woman)

Det Bill Kushner (escaped because of Burge and Byrne)

Det Frank Laverty

Det Walter Young

Det John McCabe

Det Pat O'hare and Det Tom McKenna had nothing to do at all with the beating of your client. Your client was beat after he confessed because Burge and company were showing off.

In return for this information I ask that you notrat those subjects who were not involved with leniency. In the future you will hear from me only if I feel that I won't be disclosed ever. Do not leave this letter or the other in the file-take them home. That way they won't be available for reproduction or subpeona.

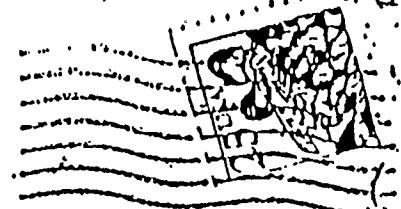
Doc #3

19-cv-4048(FBI)-709



City of Chicago

Department of Police  
1121 South State Street  
Chicago, Illinois 60605



Flint Taylor  
343 S. Dearborn St.  
Suite 1607  
Chicago, Ill 60604

19-cv-4048(FBI)-710

Doc #3

P. 2



Mr. Taylor:

As I have said previously I do not want to be involved in this affair. That is why I asked for the reassurance that these letters would be kept private. I do not wish to be shunned like Officer Laverty has been since he co-operated with you.

The following points should be made.

Burge hates black people and is an ego maniac. He would do anything to further himself.

Almost all of the detectives and police officers involved know the Wilson's did the murders but they do not approve of the beatings and torture.

No one wants to see the Wilson's get any money but they would like to see the families of the police officers get any funds that the Wilson's get.

McKenna and O'Kare did nothing at all. They have never been involved in those type of activities.

I advise you to immediately interview a Melvin Jones who is in the Cook County Jail on a murder charge. He is being re-tried in Markham. When you speak with him compare the dates from 1982 and you will see why it is important. You will also find that the States Attorney knew that he was complaining and that is why his charges were dropped then. That decision was made in the top levels at 26th and California.

There is something else but I am not quite sure of the facts if you need it contact me by the same means.

TY

BEST COPY AVAILABLE

Doc 5 p. 1  
(Substituted)

Dan & S  
P.C.



City of Chicago

Department of Police  
1121 South State Street  
Chicago, Illinois 60605



Flint Taylor  
343 S. Dearborn St  
Suite 1607  
Chicago, Illinois 60604



19-cv-4048(FBI)-713

FRONT OF MESSAGE

BEST COPY AVAILABLE

7

3/15

Time

WHILE YOU WERE

11

2

Area Code	Number	Ex
Telephoned	Please call	
Came to see you	Wants to see you	
Returned your call	Will call again	

message return calls

15 @ Carl

Country jail

in jail

check the clock

Quill Corporation • Re-order Number 7-82001 74

BACK OF MESSAGE

Mr  
not ready

airline  
911-H772

Doc #6

19-cv-4048(FBI)-714

There is much consternation in Area 2 since your latest briefs have arrived.

You must remember this that anyone who has confessed has later regretted same and

they always claim that they were brutalized and that is the reason for their confession.

The common cord is Burge. He was always present, the machines and the plastic bags were his and he is the person who encouraged their use.. You will find that the people with him were either weak and easily led or sadists. He probably did this because it was easier than spending the time and the effort talking people into confessing.

Another development is Mike Hoke was in the station looking for information. If you look at my first letter you will find that it was thought he would not be on Burge's team. He came back to Area 2 and never really worked for Burge but rather for the commanders as the mission team leader. He was not the beating type but is a thorough humorless workaholic who stood up to Burge every time he could. He said he was named in your brief and you have your facts all wrong. You had him named in cases that he had nothing to do with and that the court documents will show this. He said that Burge's partners were a Gaffney, Norbie and Jimmy Pichta. Apparently he has done his homework and has paperwork to verify his noninvolvement.

You also have named Joe Gorman. Joe Gorman is another non-beater. He was thorough and a good interrogator but he was not brutal.

Also I will again say that Pat O'Hare had nothing at all to do with Burge and his crew. He should be cut loose.

Back to my first paragraph alot of people have to do the rest of their lives in jail or want revenge so check and make sure they are telling the truth.

Another thing to do is check with the federal government on all of the principles in this case. With a freedom of information request you might find something.

Burge thinks this is his most important case and he brags about it. You could check in the taverns at 103rd and 92 and Western and you will find that Burge youse to brag about everyone he beat. If you know anyone who works in OPS ask them about Burge.

TY

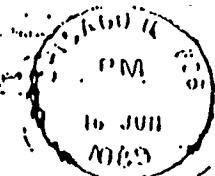
19-cv-4048(FBI)-715

Doc #7



City of Chicago

Department of Police  
1121 South State Street  
Chicago, Illinois 60603



G. Flint Taylor  
343 S. Dearborn St #1607  
Chicago, Ill 60601



19-cv-4048(FBI)-716

FBI

## TRANSMIT VIA:

- Teletype  
 Facsimile  
 AIRTEL

## PRECEDENCE:

- Immediate  
 Priority  
 Routine

## CLASSIFICATION:

- TOP SECRET  
 SECRET  
 CONFIDENTIAL  
 UNCLAS E F T O  
 UNCLAS

Date 1/15/93

TO : DIRECTOR, FBI (44A-CG-78234)  
 (ATTN: CIVIL RIGHTS UNIT)

FROM : SAC, CHICAGO (44A-CG-78234) ~~(X)~~ (SQ. 12)

SUBJECT : UNSUB(S);  
 COMMANDER JON G. BURGE,  
 CHICAGO POLICE OFFICER,  
 CHICAGO POLICE DEPARTMENT,  
 CHICAGO, ILLINOIS;

[REDACTED] VICTIM;  
 CIVIL RIGHTS;  
 OO: CHICAGO

b3 -2  
 b6 -2  
 b7C -2

1/93  
 LHM

Reference Chicago airtel to the Bureau, dated 8/25/92.

Enclosed for the Bureau is the original and two (2) copies of a Letterhead Memorandum (LHM) with attached copies of three (3) local newspaper articles all dated 1/14/93, concerning captioned investigation.

Also, enclosed is a copy of a Civil Complaint, [REDACTED] filed at the UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS, Eastern Division.

b3 -2  
 b6 -2  
 b7C -2

One copy of the LHM, with attachments and Civil Complaint [REDACTED] was furnished to the UNITED STATES ATTORNEY'S OFFICE, Chicago, Illinois.

3 - Bureau (Encl. 4) (w/3 Attachments)

2 - Chicago

JLS:rcb

(5) JG

44A-CG-78234-69

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 15 1993	
FBI - CHICAGO	

NB

Approved: \_\_\_\_\_ Transmitted \_\_\_\_\_ Per \_\_\_\_\_  
 (Number) (Time)

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to  
File No.

Chicago, Illinois 60604

January 15, 1993

COMMANDER JON G. BURGE,  
CHICAGO POLICE OFFICER,  
CHICAGO POLICE DEPARTMENT,  
CHICAGO, ILLINOIS:

[REDACTED] VICTIM;  
CIVIL RIGHTS

b6 -2  
b7C -2

On January 13, 1993, [REDACTED]

b3 -2

b6 -2,-5,-6

[REDACTED] telephone number [REDACTED] advised that he [REDACTED] b7C -2,-5,-6  
is representing [REDACTED] who alleges that his  
civil rights were violated when [REDACTED]  
by Area III detectives on [REDACTED] advised  
that he was working with Assistant Cook County Public Defender,  
[REDACTED] who represented [REDACTED]  
[REDACTED] stated that they  
agreed not to let [REDACTED]  
[REDACTED] He further  
advised that they plan to [REDACTED]  
[REDACTED] therefore, he will have him available for interviews by  
the FEDERAL BUREAU OF INVESTIGATION (FBI) during the week of  
January 17-23, 1993.

On January 14, 1993, [REDACTED] had a messenger to hand  
deliver a copy of the above civil complaint, [REDACTED] to the  
FBI office, Chicago, Illinois.

b6 -5

b7C -5

b3 -2

On January 15, 1993, [REDACTED]  
CHICAGO POLICE BOARD, 1121 South State Street, Room 603, Chicago,  
Illinois 60605, telephone number [REDACTED] advised that the  
Board has not reached a final decision regarding the JON BURGE  
case.

b6 -4,-5  
b7C -4,-5

3 - Bureau  
1 - USA Chicago (ATTN: AUSA [REDACTED])  
2 - Chicago (44A-CG-78234)  
JLS/jls  
(6)

b6 -3  
b7C -3

44A-CG-78234

Chicago will continue to monitor the Chicago Police Board hearings and report its final decision regarding captioned case to the Bureau.

2\*

19-cv-4048(FBI)-719

Best Copy Available



## FBI FACSIMILE COVERSHEET

### CLASSIFICATION

#### PRECEDENCE

- Immediate
- Priority
- Routine

- Top Secret
- Secret
- Confidential
- Sensitive
- Unclassified

Time Transmitted: 1345Sender's Initials: HZVNumber of Pages: 6

TO:

Chicago  
(Name of Office)Date: 1/15/93

Facsimile number:

(312) 786-3029

SSA

Attn:

(Name) \_\_\_\_\_ Room \_\_\_\_\_ Telephone No. \_\_\_\_\_

From:

FBI HQ - CIVIL R/C/G/CS UNIT

(Name of Office)

Subject:

\_\_\_\_\_

VICTIM

b6 -1

b7C -1

Special Handling Instructions:

HAND CARRY TO SSAASAP

Originator's Name:

\_\_\_\_\_

Telephone: (202) 324-4272

Originator's Facsimile Number:

(202) 324-3155

Approved:

HZV

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 15 1993	
FBI - CHICAGO	

WZ

FBI/DOJ

19-cv-4048(FBI)-726

BEST COPY AVAILABLE

U.S. Department of Justice

Federal Bureau of Investigation

  
In Reply, Please Refer to  
File No.

Chicago, Illinois 60604

August 25, 1992

UNKNOWN SUBJECT(S);  
COMMANDER JON G. BURGE,  
CHICAGO POLICE OFFICERS,  
CHICAGO POLICE DEPARTMENT,  
CHICAGO ILLINOIS;  
[redacted] VICTIM;  
CIVIL RIGHTS

On August 19, 1992, [redacted]

telephone number [redacted]

[redacted] advised that [redacted] Judge WALTER WILLIAMS granted

[redacted] since the State's attorneys were not prepared and refused to argue the motion.

[redacted] advised that the State's refusal to argue the motion prevented the charges of torture by Area III Violent Crimes Detective from being aired in court. She advised that she had all of her witnesses present. [redacted] also stated that she saw and thought the State had all of their witnesses present. However, when the State's attorneys went before the court and asked for a continuance for several reasons, Judge WILLIAMS rejected all of them. He stated that both sides has had 10 months to prepare for this case, therefore, to delay the hearing, just because one of the several police officers is not present is ridiculous. [redacted] advised that the State plans to appeal Judge WILLIAMS ruling on August 31, 1992.

[redacted] advised that [redacted]

[redacted] She stated b3 -2 b6 -2,-5,-6  
that this suit will probably be filed by the end of August, 1992. b7C -2,-5,-6

[redacted] further advised that although [redacted] will represent [redacted] she is still his criminal attorney and sees no reason why the civil suit should interfere with the FEDERAL BUREAU OF INVESTIGATION's request to interview [redacted]

6  
J

44A - 9-78234-71

SEARCHED	INDEXED
SERIALIZED <i>Q</i>	FILED <i>S</i>
JAN 14 1993	
FBI — CHICAGO	<i>Wfj</i>

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

1/13/93

[redacted] telephone [redacted] b3 -2  
[redacted] number [redacted] advised that he is representing [redacted] b6 -2,-5,-6  
[redacted] who alleges that his civil rights were b7C -2,-5,-6  
violated when [redacted] by Area III  
detectives on [redacted] advised that he was  
working with Assistant Cook County Public Defender [redacted]  
who represented [redacted]  
[redacted] stated that they  
agreed not to let [redacted]  
[redacted] He  
[redacted] further advised that they plan to [redacted]  
[redacted] therefore, he will have him available for interviews by  
the FEDERAL BUREAU OF INVESTIGATION (FBI) during the week of  
January 17-23, 1993.

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Investigation on 1/13/93 at Chicago, Illinois File # 44A-CG-78234

by SA [redacted]

JLS:rcb

Date dictated

1/13/93

b6 -1  
b7C -1

# Memorandum



To : SA [redacted]  
SQUAD 12

From : SSA [redacted] (SQUAD 12)

Subject: FBIHQ PROGRAM REVIEW;  
CIVIL RIGHTS PROGRAM

Date 1/15/93

b6 -1  
b7C -1

For the information of SA [redacted] Chicago received a facsimile from the Civil Rights Unit at FBIHQ on 1/14/93 which outlined those cases that HQ is interested in updating through submission of a report. This list is a result of the Civil Rights Unit's regular internal program review. Those cases on this list addressed by you are listed below. This data is from FBIHQ computer studies and may be incorrect. Please check and if more recent communications have been sent to HQ, please advise me as soon as possible. If you have not responded to HQ since the date listed as the "last communication" below, please do so now. Your attention to this matter is appreciated.

b6 -1  
b7C -1

<u>File Number</u>	<u>Initial Communication</u>	<u>Last Communication</u>	<u>Victim Last Name</u>
44A-78234	10/16/90	9/4/92	Burge Case
44A-86760	6/5/92	10/23/92	Cook County

1 - SA [redacted]  
1 - 44A-78234  
1 - 44A-86760  
1 - 44-0

MRZ

WJ

44A-78234-72

SEARCHED	INDEXED
SERIALIZED	FILED
JAN 15 1993	
CHICAGO	

19-cv-4048(FBI)-735

FBI

## TRANSMIT VIA:

- Teletype  
 Facsimile  
 AIRTEL

## PRECEDENCE:

- Immediate  
 Priority  
 Routine

## CLASSIFICATION:

- TOP SECRET  
 SECRET  
 CONFIDENTIAL  
 UNCLAS E F T O  
 UNCLAS

Date 2/8/93

TO : DIRECTOR, FBI (44A-CG-78234)  
 (ATTN: CIVIL RIGHTS UNIT)

FROM : SAC, CHICAGO (44A-CG-78234) (X) (SQ. 12)

SUBJECT : UNSUB(S);  
 COMMANDER JON G. BURGE,  
 CHICAGO POLICE OFFICER,  
 CHICAGO POLICE DEPARTMENT,  
 CHICAGO ILLINOIS.

[REDACTED] - VICTIM;  
 CIVIL RIGHTS;  
 OO: CHICAGO

b6 -2  
b7C -2

Reference Chicago airtel to the Bureau, dated 1/15/93.

Enclosed for the Bureau is the original and two (2) copies of a Letterhead Memorandum (LHM) concerning captioned investigation.

One (1) copy of the LHM was furnished to the UNITED STATES ATTORNEY'S OFFICE, Chicago, Illinois.

3 - Bureau (Encl. 3)  
 ② - Chicago  
 JLS:rcb  
 (5)

44A-CG-78234-73

SEARCHED	INDEXED
SERIALIZED	FILED
FEB 09 1993	
FBI - CHICAGO	

Approved: \_\_\_\_\_ Transmitted \_\_\_\_\_ Per \_\_\_\_\_  
 (Number) (Time)

19-cv-4048(FBI)-736

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to  
File No.

Chicago, Illinois 60604

February 8, 1993

UNKNOWN SUBJECT (S);  
COMMANDER JON G. BURGE,  
CHICAGO POLICE OFFICER,  
CHICAGO POLICE DEPARTMENT;  
[redacted] - VICTIM;  
CIVIL RIGHTS

b6 -2  
b7C -2

On February 3, 1993, [redacted]

[redacted] telephone number [redacted] advised that his client [redacted]

b3 -2  
b6 -2,-5  
b7C -2,-5

[redacted] advised that it is too painful for his client when he has to recall or recount the event.

Therefore, he requested that the OFFICE OF PROFESSIONAL STANDARDS (OPS) and the FEDERAL BUREAU OF INVESTIGATION (FBI) interview [redacted] at the same time.

On February 3, 1993, [redacted] OPS, advised that her agency is very interested in getting a statement from [redacted]. She advised that it would acceptable to her if the interview is conducted with OPS as the lead agency, the FBI as the lead agency or jointly.

b3 -2  
b6 -2,-4,-5  
b7C -2,-4,-5

On February 4, 1993, Assistant United States Attorney (AUSA) [redacted] concurred that if it is at all possible, [redacted] should be interviewed independently by the FBI. However, since [redacted] will only consent to one interview and since the FBI is not the lead agency, he would have no problem with OPS interviewing [redacted] and thereafter the Federal Government obtaining OPS' records via a subpoena.

b3 -2  
b6 -2,-3,-5  
b7C -2,-3,-5

3 - Bureau (Encl. 3)  
1 - USA, Chicago (ATTN: [redacted])  
2 - Chicago (44A-CG-78234)  
JLS:rcb  
(6)

b6 -3  
b7C -3

44A-CG-78234

Chicago will continue to monitor the Chicago police Board hearings as well as the OPS investigation regarding the new allegations concerning captioned matter.

44A-CG-78234-74

SEARCHED INDEXED  
SERIALIZED FILED *OS/OS*

FEB 18 1993	
FBI - CHICAGO	
<i>W.H.</i>	

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

2/18/93

[REDACTED] CHICAGO POLICE BOARD,  
1121 South State Street, Room 603, Chicago, Illinois 60605,  
telephone [REDACTED] advised that the CHICAGO POLICE BOARD  
hearings are a matter of public record, therefore he released the  
attached copy of their Findings & Decision report regarding the  
charges against Commander JON BURGE, case number 91-1856,  
Detective [REDACTED] case number 91-1857, and Detective [REDACTED]  
[REDACTED] case number 91-1858.

b6 -4,-5,-7  
b7C -4,-5,-7

CHICAGO POLICE BOARD,

1121 South State Street, Room 603, Chicago, Illinois 60605,

telephone [REDACTED]

advised that the CHICAGO POLICE BOARD

hearings are a matter of public record, therefore he released the

attached copy of their Findings &amp; Decision report regarding the

charges against Commander JON BURGE, case number 91-1856,

Detective [REDACTED] case number 91-1857, and Detective [REDACTED]

case number 91-1858.

[REDACTED]

BEFORE THE POLICE BOARD OF THE CITY OF CHICAGO

IN THE MATTER OF THE CHARGES FILED )  
AGAINST COMMANDER JON BURGE, STAR NO. 338, ) NO. 91-1856  
DEPARTMENT OF POLICE, CITY OF CHICAGO, )

IN THE MATTER OF THE CHARGES FILED AGAINST )  
DETECTIVE PATRICK O'HARA, STAR NO. 2888, ) NO. 91-1857  
DEPARTMENT OF POLICE, CITY OF CHICAGO, )

IN THE MATTER OF THE CHARGES FILED AGAINST )  
DETECTIVE JOHN YUCAITIS, STAR NO. 7744, ) NO. 92-1858  
DEPARTMENT OF POLICE, CITY OF CHICAGO, )

FINDINGS & DECISION

The Superintendent of the Chicago Police Department filed charges with the Police Board on November 12, 1991, seeking the dismissal of Commander Jon Burge, Detective John Yucaitis and Detective Patrick O'Hara (collectively "Respondents"). On February 14, 1982, the Respondents were involved in various aspects of the arrest and subsequent detention of Andrew Wilson. The police arrested Wilson as a suspect in the tragic murder on February 9, 1982, of two Chicago police officers, William Fahey and Richard O'Brien. Wilson ultimately was charged with and convicted of murdering the two police officers. In 1987, the Illinois Supreme Court reversed Wilson's conviction. He subsequently was retried for the two murders and convicted once again. Wilson's appeal of his second murder conviction is still pending in the Illinois Appellate Court.

The Department's charges arise from the Respondents' alleged misconduct during the 15-hour period on the 14th--from approximately six o'clock in the morning until approximately nine o'clock in the evening--when Wilson was either being detained at Area 2 police headquarters, then located at 9059 S. Cottage Grove Ave., or was

effectively in the custody of Area 2 officers. The basic substance of the Department's two-pronged charges against Burge and Yucaitis is the same. First, the charges allege that Burge and Yucaitis, alone, in concert with one another or in concert with unnamed others, physically abused Wilson without justification while he was in custody. Second, the Department claims that although Burge and Yucaitis knew or had a reasonable basis for believing that one another or others were physically mistreating Wilson at Area 2, they failed to stop or report the mistreatment or obtain medical attention for him.

The Department contends that the two prongs of the alleged misconduct by Burge and Yucaitis violated the following Departmental Rules: Rule 2--prohibiting any action or conduct impeding the Department's efforts to achieve its policy and goals or discrediting the Department; Rule 5--requiring the performance of duties; Rule 6--prohibiting disobedience of an order or directive; Rule 8--prohibiting disrespecting or maltreatment of any person; Rule 9--prohibiting an unjustified verbal or physical altercation with any person; Rule 10--requiring attention to duty; and Rule 22--requiring the reporting of violations of Departmental Rules and Regulations or other improper conduct.

The only variance in the charges against Burge and Yucaitis is that the Department also has filed a Rule 3 violation charge against Burge arising from his supervisory capacity as a Police Lieutenant and as a commanding officer of Area 2 Violent Crimes as well. Rule 3 forbids any failure to promote the Department's efforts to implement its policy or accomplish its goals.

Unlike Burge and Yucaitis, O'Hara is not charged with physically abusing Wilson. The Department charges O'Hara with knowing or having a reasonable basis for knowing about the alleged mistreatment of Wilson by Burge, Yucaitis or others and failing to stop mistreatment, or report it, or to obtain medical attention for Wilson. The Department charges O'Hara with violating Rules 2, 5, 6, 10 and 22.

Burge, Yucaitis and O'Hara, individually and collectively, vehemently deny any active or passive misconduct with respect to their treatment of Wilson. Although the Department filed separate charges against each of the Respondents, they agreed to have their cases consolidated before the Board for a single hearing.

The record in this case is the most voluminous in the Police Board's history. It consists of over 3800 pages of live testimony and argument presented to the Board's hearing officer, scores of exhibits, numerous motions and several thousand pages of testimony from related proceedings dating back to 1982, including the initial criminal action against Wilson for the murders of Fahey and O'Brien and his civil lawsuit first filed in 1986 seeking damages from the Respondents and the City. We chart our course through this massive record and most unfortunate case by summarizing those key facts about which there is little or no dispute, and which frame the controverted issues in the case. We then summarize the major areas of evidence that the parties' contend support their respective theories of the case. We next move to resolve the parties' dispositive motions in the case, i.e., motions concerning factual and legal matters that could determine the outcome of the entire case and the motions concerning primarily evidentiary and procedural matters which are not outcome determinative of the case per se. Finally, we present the Board's resolution of the case.

I.  
UNCONTESTED FACTS

On February 9, 1982, at approximately two o'clock in the afternoon, Chicago police officers William Fahey and Richard O'Brien stopped a brown Chevrolet in the 8100 block of S. Morgan Ave. Respondent Officers' Exhibit 25A. Fahey and O'Brien ordered Jackie Wilson to step outside the vehicle, while Andrew Wilson remained inside. Defendant Officers' Exhibit 16A. A scuffle occurred between Andrew Wilson and one of the officers. This scuffle led to Andrew Wilson shooting both police officers with Fahey's weapon. Andrew Wilson took the service revolvers of Fahey and O'Brien and drove off. An alert and brave citizen noticed two men entering the brown Chevrolet and drive away. He then noticed two police officers lying on the ground. He used their squad car radio to notify the police that two police officers had been shot. Numerous police officers responded to the call. Unfortunately, the lives of Fahey and O'Brien could not be saved.

Later in the day, Lieutenant Burge took charge of Area 2's investigation into the murders of Fahey and O'Brien. Burge Tr. 2420-2421, 2555-2556. Burge describes himself as a hands-on supervisor. He joined the Department in 1970 and became the Commanding Officer of the Area 2 Violent Crimes unit in October 1981. Burge Tr. 2391, 2398. In that capacity, Burge was responsible for supervising investigations by approximately 50 detectives in Area 2. The Department had not disciplined Burge in any manner prior to suspending him in this case and had commended him for his work on several occasions. Burge Tr. 2401-2402.

Detectives Yucaitis and O'Hara were under Burge's command in Area 2. Yucaitis became a Chicago police officer in 1964. Yucaitis Tr. 1689-1694. The Department's only disciplinary action taken against Yucaitis was a two-day suspension in 1965 for an automobile accident. Yucaitis has received Departmental honors on more than 80 occasions. Yucaitis has known, worked with and been friends with Burge since the early 1970's. Yucaitis Tr. 1749. O'Hara joined the Department in 1962. O'Hara Tr. 1843. O'Hara has received some Departmental honors over the years. The record does not disclose his prior disciplinary history, but the Board's records, which go back for five years, disclose no disciplinary problems. O'Hara knew and worked with both Burge and Yucaitis dating back to the early 1970's; at one point Yucaitis and O'Hara were partners. O'Hara Tr. 1637.

The only matter that Burge worked on from February 9 to February 14 was the investigation into the homicides of Fahey and O'Brien. Burge Tr. 2421. As the supervisor, Burge typically did not personally take charge of investigations. Burge Tr. 2519-2520. This was the most important case Burge had worked on in his career. Burge Tr. 2411. Burge worked day and night during this time, never went home and had little or no sleep. Burge Tr. 2428, 2436, 2438, 2470-2471.

Cook County Sheriff's Officer Lloyd Witcliff and Chicago Police Officer James Doyle had been shot dead while on duty in Area 2 within the two weeks prior to the murders of Fahey and O'Brien. Burge Tr. 2513-2516. This unfortunate sequence of events heightened the already strong sense of urgency felt by the police to apprehend the murderers of Fahey and O'Brien. Moreover, Burge and other detectives working on the investigation had reason to believe that the gunman who murdered Fahey and

O'Brien acted deliberately; their murders were not the result of a struggle and an accidental discharge of Fahey's weapon. Burge Tr. 2434

By the early morning of February 13, 1982, several witnesses had come forward implicating Andrew Wilson and his brother Jackie Wilson in murders of Fahey and O'Brien. Burge Tr 2438-2443. Based upon information that they might find Andrew Wilson, Burge and other police officers went to Willie's Beauty Salon at 1440 West 115th Street on the 13th. Although the police did not find Wilson at the beauty salon, they did find the service revolvers of Fahey and O'Brien, along with a sawed-off shot gun. Defendant Officers' Exhibit 25A. The sawed-off shot gun was one of the weapons fired during the Witcliff homicide. Burge Tr. 2515. In addition, the police also had reason to believe that Wilson was actively involved in a plan to help Edgar Hope escape from police custody, in Cook County Hospital, while Hope received medical attention. The police were guarding him as a suspect in Police Officer Doyle's murder. O'Hara Tr. 1847.

During the afternoon of the 13th, O'Hara and Detective Thomas McKenna took a statement regarding the Fahey and O'Brien murders from Donald White. Respondents' Exhibit 50. Burge was present when the statement was taken. Burge Tr. 2561. White's statement further implicated the Wilson brothers in the two murders. O'Hara also asked White, "Have any promises or threats been made to you to make this statement?" White responded, "No".

By February 14, Burge and the other detectives working on the Fahey and O'Brien case realized that Andrew Wilson had been identified in a line-up conducted in December, 1981, by Detectives Thomas McKenna and Fred Hill, both under Burge's

command, as the perpetrator of the World Camera armed robbery on December 3, 1981, at 115th S. Michigan Ave. Department Exhibit 31; Burge Tr. 2534-2535. Wilson was on parole for another armed robbery at the time of the World Camera line-up; and as a suspect in the World Camera case, Wilson became a parole violator who could have been held without bond. Burge Tr. 2539-2545. However, because of an unexplained glitch, Wilson was released on bond as a suspect in the World Camera case. Now that Wilson was a prime suspect in the Fahey and O'Brien murders, Burge was annoyed at Hill and McKenna for having permitted Wilson to slip through their hands.

Burge, McKenna, O'Hara, Deputy Superintendent McCarthy and numerous assisting officers arrested Wilson on February 14, 1982, at approximately 5:15 a.m. in an apartment located at 5301 W. Jackson. Defendant Officers' Exhibit 25A; Burge Tr. 2548. Wilson, who was born in 1952, has had limited formal education and is functionally illiterate. Wilson Tr. 166-167. Wilson was on parole for armed robbery when he was arrested, having served seven years in jail on a sentence of six to eighteen years for his conviction in 1975. Wilson's criminal record includes at least a half-dozen additional instances when he was convicted dating back to 1969, and he was either incarcerated or given probation. Respondent Officers' Exhibit 144. His offenses included unlawful use of a weapon, theft, burglary and possession of marijuana.

When Andrew Wilson was arrested, Deputy Superintendent McCarthy and Sergeant Brannigan grabbed Wilson and threw him to the floor. Burge Tr. 2450-2451; McCarthy Tr. 5500. While Wilson was on the floor, Burge placed his knee on the small of Wilson's back and the other knee on the back of Wilson's head. Burge also testified that the police were not trying to be gentle because they knew Wilson had a gun.

Brannigan and McCarthy then handcuffed Wilson behind his back. Wilson didn't hit any furniture; he went straight to the floor. The Department is not contending that the police's handling of Wilson at the arrest scene constituted physical mistreatment.

When the police arrested Andrew Wilson, he didn't have a shirt on. McCarthy Tr. 5501; Wilson Tr. 68. Wilson Tr. 6972. There were no marks, bumps, cuts or blood on his chest or head. McCarthy Tr. 5501; Karl Tr. 4023. Wilson's gym bag was recovered from the apartment where he was arrested. Karl Tr. 3999-4003. The gym bag contained a loaded gun and several rounds of extra ammunition. Burge Tr. 2452; Wilson Tr. 69-70; Yucaitis Tr. 1846; O'Hara Tr. 1903-1904.

Yucaitis and O'Hara were among the arresting police officers at the scene of Wilson's arrest who were not physically involved in the arrest. Yucaitis Tr. 1700-1706; O'Hara Tr. 1843-1846. Yucaitis was not involved with the Fahey and O'Brien investigation prior to the 14th and had started work that day at about 12:30 a.m. Yucaitis Tr. 1695-97. Detectives Karl, Bajenski, Pienta and Yucaitis transported Wilson in a squad car to Area 2. Karl 5628; Yucaitis Tr. 1710. He remained handcuffed behind his back on the trip.

Before the police transported Wilson from the arrest scene to Area 2, Burge told Yucaitis words to the effect: "Don't let anybody get to him. Don't let nobody talk to him. Treat him right." Yucaitis Tr. 1711, 1771; Burge Tr. 2560-2561. Burge was concerned that because Wilson had killed two police officers, other police officers might want to take out revenge against Wilson.

Andrew Wilson arrived at Area 2 after his arrest shortly after 6:00 a.m. on February 14, 1982. O'Hara Tr. 1850. He was taken to the second floor at Area 2. Burge and O'Hara arrived at Area 2 sometime after 6 o'clock on the morning of the 14th. O'Hara Tr. 1850. Burge assigned Yucaitis, Karl and David Diguandi to be outside the room where Wilson was being held on the second floor of Area 2 and make sure no unauthorized persons entered the room, Yucaitis Tr. 1725; Karl Tr. 4039.

Former Assistant State's Attorney Paul Nealis, who is now a Circuit Court Judge, had been with police investigating the Fahey and O'Brien murders since the 12th and traveled to the scene of Wilson's arrest with Burge. Nealis Tr. 2179-2180. Nealis, who also is a former Chicago police officer, left the arrest scene and arrived at Area 2 with police officers at approximately 6:00 a.m. He remained at Area 2 until shortly after Andrew Wilson was taken to the Area 1 line-up at approximately 3:00 p.m. Nealis Tr. 2187. Nealis had no formal role in the murder investigation or questioning of suspects. Nealis Tr. 2191.

Assistant State's Attorney Larry Hyman was called at home at 8:30 a.m. and arrived at Area 2 at approximately between 9:15 and 9:30 a.m. Hyman Tr. 1140-1141. Another Assistant State's Attorney, Kathleen Warnick, arrived at Area 2 approximately between 9:00 and 10:00 a.m. and stayed until approximately 4:00 p.m., mostly in the large open room on the second floor. Warnick Tr. 5591, 5597. But Warnick never saw Andrew or Jackie Wilson and was not involved when Hyman took their statements. Warnick Tr. 5607, 5612-5613, 5616-5617.

Michael Hartnett, a licensed court reporter employed by the State's Attorney's Office who took the statements of Andrew and Jackie Wilson and other witnesses,

arrived at Area 2 between 10:00 and 10:30 a.m. on February 14, 1982. Hartnett Tr. 4902; O'Hara Tr. 1870. After Jackie Wilson arrived at Area 2, he gave an oral statement to O'Hara at 10:15 a.m. Respondent Exhibit 25A.

Andrew Wilson's fingerprints were taken by evidence technician Tim McKeough at approximately 11:30 a.m. on February 14, 1982 in an interview room at Area 2. McKeough Tr. 2725-2730. Wilson was in the interview room by himself handcuffed to a ring in the wall when McKeough took the fingerprints. McKeough saw Burge, Yucaitis and O'Hara in the large common room outside of the interview room. McKeough Tr. 2738.

Larry Hyman took a court reported statement from Jackie Wilson at 12:20 p.m. in the Case Management Office at Area 2. Defendant Officers' Exhibit 16A; Hartnett Tr. 4908. Michael Hartnett was the court reporter and Detective McKenna was present. The statement was completed at 12:43 p.m. Among other things, the statement reflects Andrew Wilson as the triggerman in the slaying of O'Brien and Fahey. There is nothing in Jackie Wilson's statement indicating that the statement was given voluntarily and free of threats or coercion. Hartnett took a Polaroid photograph of Jackie Wilson at 2:15 p.m. Defendant Officers' Exhibit No. 16B; Hartnett Tr. 4908.

Burge went to Police Headquarters at 11th and State for a press conference at approximately 12:30 and arrived approximately between 1:15 and 1:30 p.m. on February 14, 1982. Burge Tr. 2474-2487. The press conference lasted until 2:30 p.m. After speaking with then Superintendent Richard Brzeczek and officers in the detective division, Burge went to Area 1 (51st and the Dan Ryan) where a lineup was being held.

He arrived approximately between 3:15 and 3:30 p.m. Burge returned to Area 2 between approximately 5:30 and 6:00 p.m. Burge Tr. 2487.

Larry Hyman and Kathleen Warnick took a statement from Derrick Martin at 3:30 p.m. on February 14, 1982 in the Records Office at Area 2 which was completed at 4:00 p.m. Def. Off. Ex. 35; Hartnett Tr. 4911-4913; Warnick Tr. 5594-5596. Hartnett transcribed the statement. Among other things, Martin's statement reflected a conversation with Andrew Wilson in which Wilson admitted shooting O'Brien and Fahey. The statement also reflected Hyman asking Martin whether he was giving the statement voluntarily and under his own free will, and Martin responded "Yes."

Andrew Wilson left Area 2 to go to lineup at Area 1 at approximately 3:00 p.m. on February 14, 1982. O'Hara Tr. 1881. Wilson was transported by two uniformed police officers in a squadrol. Jackie Wilson was transported to Area 1 by O'Hara and Detective Thomas McKenna. Yucaitis left Area 2 at approximately 3 o'clock in the afternoon of the 14th, went home and did not return that day. Yucaitis Tr. 1749-1742, 1753-1754.

Hill arrived at Area 1 at approximately 4:00 p.m. and helped conduct the line-up. Hill Tr. 3804-3807. The lineup with Andrew Wilson was held at 4:35 p.m. at Area 1. Respondent Officers' Exhibit 100; O'Hara Tr. 1881. Burge was present at the line-up. Burge Tr. 2476-2482. Photographs were taken of Wilson and others in the lineup. Exhibits 36, 37, 38. Detectives O'Hara and McKenna transported Andrew Wilson from Area 1 back to Area 2 in an unmarked police car. O'Hara Tr. 1889-91. They arrived at Area 2 at approximately 5:30 p.m. O'Hara Tr. 1889-91.

Wilson gave Hyman and O'Hara a statement in an Area 2 interview room, transcribed by court reporter Hartnett, confessing his role as the triggerman in the slaying of O'Brien and Fahey at 6:05 p.m. Wilson completed his statement at 6:25 p.m. Respondent Ex. 17; Hyman Tr. 1189-1196; O'Hara Tr. 1915-1919; Hartnett Tr. 4914-4916. There is nothing in Andrew Wilson's statement indicating that it was given voluntarily and free of threats or coercion. There was a radiator in the interview room.

Hartnett took a color Polaroid photograph of Andrew Wilson in Area 2 on February 14, 1982 at 8:30 p.m. Defendants' Exhibit 18; Hartnett Tr. 4916-4918. Hyman and O'Hara were present when the photo was taken and witnessed it. Hyman Tr. 1198; O'Hara Tr. 1920-1922. Hartnett saw Andrew Wilson for the last time at approximately between 8:45 to 9:30 p.m. Hartnett Tr. 4933.

Someone from Area 2 called the Department's communications section for a squadrol and Officers Ferro and Mulvaney responded, picking up Wilson between 9:00 and 9:30 p.m. O'Hara Tr. 1924-1925. Ferro retired as a police officer in 1983 and moved to Florida. Ferro Tr. 4. Mulvaney committed suicide shortly after Ferro retired in June 1983. Ferro Tr. 7-8. When Ferro and Mulvaney picked up Wilson, Burge was in the interview room. Ferro Tr. 12. There are no radiators in the back of the squadrol. Ferro Tr. 28. Wilson did not resist being placed in the back of the squadrol or try to escape. Ferro Tr. 18, 34.

Andrew Wilson was taken to the lock-up at 11th and State from Area 2 by Ferro and Mulvaney on February 14, 1992, but he was rejected because of his physical condition. Ferro Tr. 29-32. There was a radiator on the way from the prisoner loading dock at 11th & State to the lock-up. Tr. 2711. The precise time that Wilson was

rejected at the lock-up is not clear; but this presumably occurred sometime after approximately 9:00 to 9:30 p.m. when O'Hara testified that the wagonmen picked up Wilson and 10:45 p.m. when Wilson was admitted to Mercy Hospital.

Ferro and Mulvaney took Andrew Wilson to Mercy Hospital where he was admitted at 10:45 p.m. and given a short physical examination by Dr. Geoffrey Korn. Def. Aff. 58 Pl. 2-F. Wilson remained at Mercy Hospital at least until 11:40 p.m.

During the course of Dr. Korn's examination of Andrew Wilson on the evening of the 14th, he observed: (1) numerous red scratches or linear marks along the chest; (2) scratches on the right shoulder; (3) a long wound on Wilson's right thigh which Dr. Korn characterized as a second degree burn; (4) a bruise under Wilson's right eyelid and redness on the surface of the right eye; (5) cuts on the forehead and a cut on the back of the head; and 6) two 8 centimeter long linear abrasions on Wilson's right cheek. Korn Tr. 2807-2808, 2811, 2813, 2814; Def. Off. 58 Pl. 2-F. Patricia Crossen, a Mercy Hospital nurse who assisted Dr. Korn and examined Andrew Wilson herself, observed the same injuries to Wilson on the night of the 14th that Dr. Korn observed. Crossen Tr. 1837-1842. In Ferro's deposition testimony presented to the Board, he denied that he or Mulvaney physically abused Wilson. However, the Department and the Respondents are in agreement that at least some of Wilson's injuries are attributable to him being physically abused by Ferro or Mulvaney. Wilson Tr. 580; Reidy Closing Argument Tr. 3426; Kunkle Closing Argument Tr. 3589.

Ferro and Mulvaney took Andrew Wilson back to 11th and State after Dr. Korn examined him; Dr. Korn refused to treat him because Ferro and Mulvaney had their

guns out. Korn Tr. 2805, 2821-2822; Def. Off. 58, Pl. 2-F. There are no radiators or other heating units in the cells at 11th & State. Migliere Tr. 31-32.

On February 15, 1982, Barbara Steinberg, an assistant public defender for Cook County, met with Andrew Wilson at the Cook County Criminal Court Building, 26th and California at approximately 9:00 a.m. Steinberg Tr. 2017, 2025. She met with Wilson prior to a bond hearing. Andrew Wilson told Steinberg that he had been electrically shocked and beaten while in custody at a police station. Steinberg Tr. 2019, 2032. She observed damage to Wilson's face and chest and abdominal areas and requested the presiding Judge at the bond hearing to allow Andrew Wilson to receive medical attention. Steinberg Tr. 2017-2020. The Judge granted her request.

Department's Exhibits 33-00 and 33-00-1 with an intake number of 6120 is the intake photograph taken on the 15th of Andrew Wilson at Cook County Jail before he received medical attention. Jackie Wilson's photograph has intake number 6121 and was taken at 10:01 a.m. Andrew Wilson was treated for his injuries by Dr. Stephen Goodman at Cermak Hospital, which is a part of the Cook County jail, at 10:55 a.m. on February 15, 1982. Respondent Officers Exhibit 59. Dr. John Raba saw Wilson and examined him at the Cook County Jail in the evening on February 15, 1982. Wilson was given outpatient medical treatment for his injuries from February 15, 1982 to March 3, 1982.

On February 17, 1982, Dr. Raba wrote a letter to Police Superintendent Richard Brzeczek reflecting Andrew Wilson's injuries. Pl. 1A.; Def. Off. 61. In addition to describing Dr. Raba's findings from his examination of Wilson, the letter reflects Wilson's statements to Dr. Raba that he had been pushed into a radiator and given electrical shocks. Raba Tr. 692-695. On February 25, 1982, Dr. Raba filed a complaint

with the Chicago Police Department alleging that the police had mistreated Wilson. Department Ex. 16. The Department, through its Office of Professional Standards (OPS), closed its initial investigation in 1985 because Wilson refused to cooperate.

Dale Coventry, another assistant public defender assigned to represent Andrew Wilson, took photographs of his injuries at 3:00 p.m. on February 16, 1982. Respondent Officers' Exhibit 126. Coventry took pictures, which are now the large blowups introduced into evidence as Department's Exhibits 33GG and 33HH. Coventry Tr. 2084-2086. Wilson told Coventry that he had received the linear marks on the cheek, chest and legs when he was handcuffed and pressed up against a radiator at Area 2. Coventry 2087. He also told Coventry that he had been shocked by an electrical device while in custody at Area 2.

On November 12, 1982, Wilson testified in his criminal case connection with his Motion to Suppress his confession. Defendant Officer's Exhibit 112. The Motion to Suppress was denied. Wilson testified at the suppression hearing that Burge and Yucaitis were among the police officers at Area 2 who tortured him using electrical shocking devices. Defendant Officers Ex. No. 112, Suppression Hearing Transcript at 1145-1148, 1150-1152. Wilson was ultimately convicted of the murders of Officers Fahey and O'Brien and sentenced to death.

On April 1, 1986, Andrew Wilson filed his first civil complaint seeking damages from Burge for alleged mistreatment. Respondent Ex. 43. Yucaitis and O'Hara were not named as defendants until October 17, 1987, when Wilson filed an amended complaint. Respondent Ex. 117.

On April 2, 1987, the Illinois Supreme Court reversed Andrew Wilson's initial conviction for murdering Fahey and O'Brien on the ground that Wilson's confession, given at Area 2 between 6:05 and 6:30 p.m. on February 14, 1982, should not have been admitted into evidence. Department Ex. 23. The Supreme Court said the State had not met its burden of proving by clear and convincing evidence that Wilson's injuries were not inflicted as a means of producing the confession. Accordingly, the Court held that Andrew Wilson's statement should have been suppressed as having been involuntarily given. The Court reasoned:

Here it was "conceded, or clearly established, that the defendant received injuries while in police custody," and the only question for purposes of our inquiry is when they were inflicted. Accordingly, "more than a mere denial by the police of coercion [was] required", and it was necessary for the State to show by clear and convincing evidence that the injuries did not occur before the defendant gave his confession. We do not believe that burden was met here.

116 Ill.2d at 41, 506 N.E.2d at 576.

The State retried and convicted Andrew Wilson of murdering Fahey and O'Brien in 1988, without using his confession.

The appeal of Andrew Wilson from his second conviction for murdering Fahey and O'Brien is still pending in the Illinois Appellate Court. The first civil trial before Judge Duff in federal court was held in February 1989 and resulted in a verdict in favor of the Respondents, except that the jury could not reach a verdict as to whether there

was a conspiracy to deprive Andrew Wilson of his civil rights and also on the substantive count against Burge. The second civil trial was held before Judge Duff in August 1989, after which the Respondents were exonerated from personal liability for Wilson's injuries. Memorandum in Opposition to Motion to Dismiss on Grounds of Collateral and Judicial Estoppel, Exhibit F, Verdict Form. Nevertheless, the jury found that the Department had a policy of abuse against persons charged with shooting police officers, and that Andrew Wilson's civil rights were violated. However, the jury did not find that Wilson's civil rights were violated pursuant to the aforesaid policy. The jury did not award Wilson any monetary damages. Wilson's appeal from the second civil verdict is pending before the Seventh Circuit Court of Appeals. OPS reopened its investigation into the charges against the Respondents in 1989; after the second jury verdict in the civil trial, Wilson agreed to cooperate with OPS.

**II.**  
**THE DEPARTMENT'S THEORIES OF THE CASE**

The Department's affirmative case against all three Respondents is based upon four principal areas of evidence: 1) Andrew Wilson's testimony about the Respondents' conduct on February 14, 1982; 2) the medical testimony of the Mercy Hospital physician and nurse who examined Wilson on the evening of the 14th and the various Cermack Hospital physicians who examined him from the 15th until early March; 3) the contemporaneous photographic evidence of Wilson's injuries; and 4) the testimony of a medical expert, who evaluated the Wilson's injuries for the first time in 1989, in the context of his civil action against the Respondents for damages. In addition, with respect to Burge alone, the Department offered the testimony of two witnesses who claimed Burge had physically mistreated them in a manner similar to the way Wilson

says Burge physically mistreated him. We summarize each of these areas as briefly as possible.

#### A. WILSON TESTIMONY

Wilson testified that Burge said at the arrest scene, "Let's get him at the station." Wilson testified that police officers placed him into a room on the second floor of Area 2 as soon as he arrived on the morning of the 14th. Once he was in the room, the door was closed and various unnamed police officers began kicking him, hitting him with their fists and slapping him. They also threw him into a window and broke the window, put a plastic bag on his head and burned him on the arm with a cigarette. Neither Burge nor O'Hara was in the room when this beating took place. Yucaitis was the only officer, whose name Wilson knows, who was in the room. But Wilson testified that he is not certain whether Yucaitis was one of the officers who actually struck him. Wilson says that his right eye was first injured during the course of this beating.

According to Wilson, Burge subsequently came into the room and told the officers that "if it had been him, he would not have messed up Wilson's face". Burge ordered the officers to take Wilson out of the room, and they took him to a different room on the same floor where his right hand was handcuffed to a ring on the wall. There was a radiator under the window in that room. Burge came into that room by himself and told Wilson to confess to the murders because Burge's reputation was at stake. Wilson refused.

Wilson testified that Yucaitis then came into the room with an unnamed officer. Yucaitis pulled a black box out of a grocery bag. The box had a crank on the outside

and two wires that each had an alligator clip attached. Yucaitis attached one of the alligator clamps to Wilson's left ear and one to his left nostril. The alligator clamps did not themselves cause Wilson any pain, but he received a shock when Yucaitis cranked the box. After being shocked, Wilson kneed Yucaitis, and Yucaitis retaliated by punching Wilson in the mouth. Yucaitis cranked the box some more and Wilson hollered. Yucaitis eventually left when someone knocked at the door.

According to Wilson, O'Hara then took him out of the room to see Assistant State's Attorney Hyman. Wilson told Hyman about being mistreated and Hyman told him to leave. O'Hara returned Wilson back to the same room and handcuffed him once again.

Wilson testified that Burge then came into the room a second time with Detective Hill. Wilson is not sure what time any of these events happened because the police broke his watch. Burge took a device out, attached clamps to his ear and began cranking. This caused Wilson to grind his teeth, scream and rub the clamps off on his shoulder. Burge and Hill stretched him across the radiator in the room so that the radiator was under his chin. Wilson didn't feel that he was being burned by the radiator at that time. Burge then placed the clamps on his fingers and began cranking it again, causing Wilson to scream.

According to Wilson, Burge then took out a device that looked like a curling iron. The device had a cord on it and wire sticking out of it. Burge began rubbing the device between Wilson's legs, and Wilson could feel a tingling sensation. The shock from this device was stronger than from the crank device. While Burge was shocking Wilson, he was on his knees stretched across the radiator and Hill was kicking him in the back.

When this episode ended, Burge took the devices out of the room and Wilson was left alone until he was taken to the line-up at Area 1.

Wilson testified that at Area 1, Burge put his gun into Wilson's mouth and clicked it. Burge told Wilson that if he would confess to the murders, he would not be mistreated again. Wilson agreed to make a statement to keep from being shocked again. O'Hara and McKenna drove Wilson back to Area 2 after the lineup.

O'Hara and McKenna returned Wilson to the same interview room on the second floor of Area 2 and handcuffed him to the ring on the wall. Hyman came into the room with O'Hara and a court reporter and began asking Wilson questions, while the court reporter transcribed the questions and answers. Burge came into the room and was told to leave. After the statement was taken, someone read it to Wilson and he initialed it. The court reporter took a picture of Wilson. Wilson said he asked the court reporter for help. The court reporter said he could do nothing, but that Wilson would not be mistreated any more. Wilson testified that the confession transcribed by the court reporter is the only statement he gave to the police and that he did not give a statement when he first arrived at Area 2 at about 6 o'clock in the morning.

The two wagonmen arrived while Hill was present. The wagonmen began beating Wilson. Hill told the wagonmen to put Wilson in the lockup with other prisoners so that it would look as if he had been beaten by the other prisoners. The wagonmen started taking him down the stairs and one of them tried to trip him, but he did not fall. One of the wagonmen became angry and slammed him into a wall in the station, causing his face to bleed and reopened a scar above his right eye. During the

course of the trip to the lockup and then to Mercy Hospital, Wilson testified that one of the wagonmen hit him in the back of his head with a gun.

Wilson testified that at the time of his arrest, he did not have any burns or burn scars on his body. Wilson testified that he received marks on his face, chest and thigh from the radiator at Area 2. Wilson showed the hearing officer marks that appear to be scars on his right thigh, on the right side of his face and his chest.

**B. CONTEMPORANEOUS MEDICAL TESTIMONY AND PHOTOGRAPHIC EVIDENCE**

The Department presented the testimony of the following medical professionals who examined Andrew Wilson either on the evening of the 14th or within a few weeks thereafter: Dr. Geoffrey Korn, the Mercy Hospital emergency room physician who examined Wilson on the evening of the 14th; Patricia Reynolds Crossen, the Mercy Hospital emergency room nurse who assisted Dr. Korn and independently examined Wilson; Dr. Stephen Goodman, the Cook County Jail physician who examined and treated Wilson during the late morning of the 15th; Dr. John Raba, who was the Medical Director of the Jail and examined Wilson during the early evening of the 15th; and Dr. Harper who examined and treated Wilson from the 15th to March 3. There was medical testimony that the linear marks on Wilson's face, chest and right thigh were consistent with radiator burns occurring on the 14th, though none of them could pinpoint the precise cause of the injuries or the precise time Wilson was injured. In addition, the Cook County Jail doctors found that Wilson suffered from a scratched cornea in his right eye. The contemporaneous photographs of Wilson that are in the record confirm that Wilson had suffered numerous substantial injuries.

**C. THE DEPARTMENT'S MEDICAL EXPERT.**

Dr. Robert Kirshner is a forensic pathologist and Cook County's Deputy Chief Medical Examiner. He also is a member of the faculty at the University of Chicago Medical School. Dr. Kirshner testified on behalf of Wilson in Wilson's civil action against the Respondents and the City. Dr. Kirshner's medical opinions are based upon his examination of Andrew Wilson's medical records, photographs of Wilson and deposition testimony of various witnesses in the civil action. Dr. Kirshner also conducted a physical examination of Wilson in 1989 and went to Area 2 to examine the radiators in the interview rooms. Dr. Kirshner opined that the linear marks reflected in 1982 photographs of Wilson's cheek, chest and right thigh were consistent with burns and that the punctate marks reflected in 1982 photographs Wilson's right ear are consistent with the alligator clips Wilson testified were placed on his ears. He also testified that the hyperpigmented areas he observed in 1989 on Wilson's face, chest and thigh were consistent with burns, rather than abrasions.

**D. BURGE'S ALLEGED TWO OTHER WRONGFUL ACTS**

**1. MELVIN JONES**

Melvin Jones testified that Area 2 Detectives Flood and McGuire arrested him on February 5, 1982, in connection with the homicide of Gregory Mayfield, who was a police informant. Jones, who has been a street gang member, was on parole at the time he was arrested in 1982 and had a long criminal history for a variety of offenses, including armed robbery. At the time Jones testified before the Board in 1992, he was

an inmate in a State Prison, having pleaded guilty to possession of cocaine with intent to deliver.

After his arrest on February 5, 1982, Jones testified that Flood and McGuire took Jones to an interview room on the second floor and handcuffed him to a ring on the wall. Burge, Flood and McGuire unsuccessfully attempted to persuade Jones to confess to the Mayfield homicide. Jones was left alone for awhile and Burge returned with a wooden box, with a double cord. With Flood present, Burge plugged the cord into the electrical socket and began shocking Jones in the genitals and on his right thigh. Jones still refused to confess. The next day, Burge pulled his gun, placed it against Jones' head and threatened to blow his black head off. Burge subsequently hit Jones in the head with a stapler.

The police ultimately charged Jones with unlawful use of a weapon ("UUW"). Jones' attorney, Cassandra Watson, testified that Jones told her on February 10 that Burge and other Area 2 police officers had beaten him and shocked him with an electrical shock device. On April 7, 1982, Watson filed a generic motion to suppress statements Melvin Jones made to police in connection with his UUW charge. This motion made no reference to Burge, officers at Area 2 or electric shock. On May 7, 1982, Watson filed an amended motion to suppress, which specifies allegations of electrical shocking against Burge.

## 2. SHADEED MU'MIN

Shadeed Mu'Min currently is serving a fifteen year sentence for armed robbery and attempted murder. He also has served time in jail for an armed robbery in Ohio.

Mu'Min testified that he was arrested on October 30, 1982, and taken to Area 2. Burge tried unsuccessfully to persuade Mu'Min to confess to the robbery of a fast food restaurant and a related shooting. Burge left Mu'Min alone for about an hour. When Burge returned, he placed a typewriter cover over Mu'Min's head until he passed out. When Mu'Min recovered consciousness, Burge again unsuccessfully tried to persuade Mu'Min to confess. When Mu'Min refused, Burge placed the cover on Mu'Min's head again and he passed out again. Burge repeated this scenario a third time, but Mu'Min did not pass out. Mu'Min testified that Burge then opened his desk, took out a 44 magnum revolver, put it to Mu'Min's head and clicked it several times. Mu'Min said that he could see a bullet in the chamber of the gun.

### **III. THE RESPONDENTS' DEFENSE**

The Respondents categorically deny that: they coerced Wilson's confession or otherwise mistreated Wilson in any manner while he was at Area 2 on the 14th; they have ever seen any abusive devices similar to the ones described by Wilson in his testimony; or they knew about any police officer physically abusing Wilson on the 14th. They testified that the only injury to Wilson they were aware of on the 14th was a slight cut around his right eye, which they believe he received when he was thrown to the ground during the course of his arrest on the West Side. O'Hara testified that he offered Wilson medical assistance to Wilson shortly after police brought Wilson to Area 2 at about six o'clock in the morning of the 14th, but Wilson declined. O'Hara and McKenna testified that they took an oral statement from Wilson at about 6:50 a.m. in which Wilson confessed to his role in the murders of Fahey and O'Brien. Once they obtained that confession, they focused their attention on apprehending Jackie Wilson,

obtaining the statements of other key people, conducting the afternoon lineup and ultimately reducing Andrew Wilson's confession to writing that evening.

The Respondents vigorously attack the Department's evidence on numerous grounds. We summarize the Respondents' major points of attack and their affirmative evidence as briefly as possible.

#### A. CONTRADICTIONS IN ANDREW WILSON'S TESTIMONY

The Respondents presented the testimony of Fred Hill, his wife Carolyn and numerous other witnesses, including a Wisconsin motel clerk, that Fred Hill was on vacation in Wisconsin with his family and another family until approximately twelve noon on the 14th. He returned to Chicago by automobile and did not arrive at Area 2 until after Wilson had been transported to Area 1 for the lineup at approximately 3 o'clock. This contradicts Wilson's testimony that Burge and Hill physically abused him before he left for the lineup at Area 1.

Wilson testified before the Police Board that he did not give an oral statement to O'Hara and McKenna when he first arrived at Area 2 sometime after six o'clock on the morning of the 14th, but he admitted giving such a statement in November 1982, at the suppression hearing regarding his confession. There is further corroboration that Wilson gave the statement shortly after he arrived at Area 2 from the testimony of McKenna and Assistant State's Attorney Ginex.

Three Assistant State's Attorneys, the court reporter who took witness statements throughout the day and evening and numerous police officers in addition to the Respondents testified that they were on the second floor at Area 2 at various

times on the 14th, but never heard Andrew Wilson scream out in pain or any other noise suggesting that he was being mistreated. A subset of these witnesses also testified that they actually saw or spoke with Wilson on the 14th, and testified that other than the minor cut around his right eye, Wilson did not look as if he had been mistreated nor did he complain about having been mistreated.

Respondents assert that the photograph taken of Wilson in the lineup at 4:35 on the afternoon of the 14th and the photograph taken by the court reporter at 8:30 in the evening do not show any apparent marks on Wilson's face other than the cut over his eye. The Respondents contend that these photographs are inconsistent with Wilson's testimony that his face was pressed against a hot radiator at Area 2 earlier in the day.

#### **B. SIMILAR ACTS**

The Respondents presented evidence that the motions to suppress the confessions of Melvin Jones and Shadeed Mu'Min on the grounds that Burge mistreated them were denied by the courts that heard the motions.

On May 27, 1982, Cook County Circuit Court Judge Roger Kiley began hearing evidence on Jones' motion to suppress. Burge testified at the hearing. Judge Kiley determined that Melvin Jones' allegation that Burge had electrically shocked him lacked credibility. But Judge Kiley granted Jones' motion to suppress on the ground that Burge and other police officers violated Jones' 5th Amendment right to remain silent by continuing to question him after he said he no longer wanted to answer questions.

On October 31, 1985, Mu'Min signed a confession to the robbery and shooting prepared by Assistant State's Attorney Wilbur Crooks. The confession states that Mu'Min had been treated well while he was in police custody. On May 17, 1987, Circuit Court Associate Judge John Mannion heard Mu'Min's motion to suppress his confession on the grounds that the confession had been beaten out of him and the words used in the confession were not his. Burge testified at the motion to suppress. Judge Mannion denied Mu'Min's motion and Mu'Min ultimately was convicted of the crimes related to the robbery and shooting.

The Respondents also presented evidence that Wilson and Jones were incarcerated together in the Cook County Jail from February to September 1992. Based on this evidence, they would have the Board draw the inference that Wilson and Jones collaborated on their stories of mistreatment by Burge.

#### C. WILLIAM COLEMAN'S TESTIMONY

The Respondents presented the testimony of William Coleman from Andrew Wilson's civil action in 1989. Coleman testified that in August 1987, he was in Cook County Jail for possession of cocaine. Coleman previously had served time in England for an extortion conviction. Wilson also was in Cook County Jail at that time awaiting a second criminal trial for the murders of Fahey and O'Brien. Coleman testified that Wilson told him in August 1987, that although the police beat him on the way to Area 2, Wilson had actually draped himself on the radiator to inflict the burns on himself as a means of getting himself out of the confession. The first time Coleman ever told anyone about his conversation with Wilson was in April or May of 1989, when Coleman told his lawyer, Nicholas Trutkenko, a former Assistant State's Attorney.

**D. EXPERT MEDICAL TESTIMONY**

The Respondents presented the expert testimony of Dr. Warner Spitz, who is a board certified forensic pathologist and has been practicing medicine for forty years and Dr. Raymond Warpeha, who is Director of the Burn Center at Loyola University Hospital and has treated or managed the treatment for in excess of 6,000 patients. Neither of these physicians examined Wilson in 1982. In formulating their opinions, they relied primarily on photographs of Wilson's injuries and Wilson's medical records, including the notes of various physicians who treated Wilson.

Dr. Spitz testified that in his opinion, the marks visible on Wilson's face and chest in the 1982 photographs of Wilson taken by Dale Coventry, are not consistent with a radiator burn and are not burns of any kind. He also opined that the marks on Wilson's ear are not consistent with a spark burn or any kind of electrical burn. He did testify, however, that the mark on Wilson's thigh was consistent with a second degree burn. Dr. Warpeha's testimony was consistent with Dr. Spitz's testimony, except that Dr. Warpeha testified that the wound on Wilson's thigh was not a burn.

**IV.  
RESOLUTION OF MOTIONS**

The Police Board denied each of the following Motions made by Respondents:

(1) Motion to Dismiss Based On Laches; (2) Motion to Dismiss Based on Collateral Estoppel; (3) Motion to Dismiss Based on Judicial Estoppel; (4) Motion To Exclude Testimony Of Other Alleged Victims Of Police Misconduct; (5) Motion For A Mental Examination Of Andrew Wilson; (6) Motion To Admit Prior Testimony of Wilson From

his Federal Lawsuit; and (7) Motion For A Mistrial because of Andrew Wilson's asserting his 5th Amendment rights to certain questions asked by Respondents' counsel.

The Police Board granted Respondents Motion To Limit The Testimony Of Dr. Kirschner. The Police Board did not consider Dr. Raba's opinion that Wilson's wounds on his face and near his eyes were self-inflicted in making its decision. The Police Board reaffirmed its decision to grant the Department's Motion To Quash The Subpoena Of Francine Sanders and The Rider To That Subpoena. The Police Board will issue a supplemental opinion explaining its reasons for taking the aforesaid actions in the near future.

V.

**RESOLUTION OF THE CASE**

It is settled that the Department has the burden of proving its case against the Respondents by a preponderance of the evidence. "A preponderance of the evidence" means proof sufficient to establish that it is more probable than not that each of the Respondents did what the Department has alleged. In re C.C., 224 Ill.App. 3d 207, 215 (1st Dist. 1992).

We observed earlier that witness credibility is a major factor in resolving most excessive force cases, particularly a case such as this where the complaining witness' version of key events is so at odds with the Respondents' version. Each Respondent has served the Department for many years, with distinction and without any significant previous discipline by the Department. Commander Burge had a particularly

impressive group of character witnesses, who included a widely respected former Chicago Police Superintendent and several police officers who currently are serving with distinction at the highest levels of the Department.

In contrast, Andrew Wilson has an extensive record of criminal convictions for violent and heinous crimes, most notably the cold blooded murder of two Chicago police officers. Wilson's criminal record, standing alone, casts a shadow of doubt on his credibility. See Federal Rule of Evidence 609. Two other convicted felons' histories, Melvin Jones and Shadeed Mu'Min, whose testimony was admitted only against Burge, are not much better than Wilson's. Like Wilson, they were incarcerated for felonies at the time they testified in this proceeding. The Board, a priori, has every reason in the world to want to believe the Respondents and dismiss the testimony of Wilson, Jones and Mu'Min as the blatant mendacity of hardened criminals trying to extricate themselves from the sordid circumstances of their own making. We wish we could simply conclude that Wilson lied about having been physically abused at Area 2 to get out of his confession and spread the lie to his physicians, lawyers and jailmates in order to buttress the credibility of his Motion to Suppress and give his fellow inmates a vehicle to suppress their own confessions. We wish we could reach that conclusion and end our opinion here, but we cannot. We move to a resolution of the Department's case against each of the Respondents.

#### **A. WILSON WAS INJURED WHILE IN CUSTODY AT AREA 2**

It is undisputed that Andrew Wilson had serious injuries to his face, the back of his head, his chest and thigh by approximately 10:45 p.m. on the evening of February 14, 1982, when he was admitted to Mercy Hospital. It also is not disputed that Wilson

did not have any injuries to his face, head or chest, when he was arrested the morning of the 14th at approximately 5:15 a.m. on the West Side and transported to Area 2. We find that it is more likely than not that Wilson received at least some of these injuries at Area 2, or while in the custody of Area 2 Police Officers, and that the Respondents knew about it and failed to stop it or obtain medical attention for his injuries. We cite the major evidentiary points supporting our view.

First, the Respondents and several other Area 2 police officers testified that Wilson received a minor cut on his face during the course of being arrested. But one of the arresting officers, Deputy Superintendent Joseph McCarthy, testified as follows under cross-examination regarding Wilson's arrest:

Q. And he[Wilson] still didn't have a shirt on, right?

A. That's correct.

Q. When you brought him back up, you didn't notice any injurie (sic) on him; did you?

A. No.

Q. You didn't see any marks or burns or cuts or blood on his chest; did you?

A. No.

Q. You didn't see any on his face or his head; did you?

A. No, I didn't.

Second, Burge supposedly was so concerned at the scene of Wilson's arrest that police officers might physically abuse Wilson that Burge told Yucaitis and other Area 2 officers to treat Wilson with kid gloves, or words to that effect. Despite the fact that the Respondents all claimed that the injury to Wilson's eye was minor, O'Hara testified

that before he and McKenna took Wilson's oral statement at 6:50 a.m., he offered Wilson medical attention for his eye, but Wilson declined it. What Burge characterized as a small "ding" to Wilson's eye was of such significance that Burge brought it to the attention of his commanding officer in Area 2, Milton Deas. Deas testified:

Q. Now, you testified that you learned that Andrew Wilson had sustained an abrasion in the area of his right eye during the course of his arrest; is that correct?

A. That's correct.

Q. Now, why didn't that abrasion when you saw it lead you to think that your detectives were mistreating Andrew Wilson?

A. Well, initially--Pardon me. Initially, when I arrived at the area after the Lieutenant had summoned me, I had a conversation with the Lieutenant at which time the lieutenant indicated to me before I had seen Andrew Wilson that in the course of effecting the arrest of the suspect, he struck his head on a piece of furniture or the floor. I am not too certain now. It may have been a piece of furniture. At which time, he sustained the injury about the area of the right eye.

Subsequent to that, I went upstairs so I had knowledge that there was an injury. So there was no surprise. I had already been informed. Deas Tr. 4191-4192.

This "minor ding" was major enough for O'Hara to claim that he offered Wilson medical attention and Burge to tell his commanding officer about it. But Wilson's eye injury and O'Hara's offer of medical attention were not sufficiently significant for

O'Hara to refer to it in the transcribed statement he took from Wilson at six in the evening. Nor were these details important enough to be included in the 25-page summary of the investigation into the Fahey and O'Brien murders prepared by Hill and McKenna on February 16, and approved by Burge. Defendant Officers' Exhibit 25A. We believe that the totality of these circumstances supports a reasonable inference that Wilson did not incur his eye injury during the course of his arrest. If Burge really had ordered Yucaitis, O'Hara and other Area 2 police officers to treat Wilson with kid gloves, and Wilson had actually injured his eye at the scene of his arrest, we believe the circumstances of Wilson's eye injury would have been reflected in the six o'clock written confession or the murder investigation report or both.

Third, we are extremely skeptical, given the totality of the circumstances that Wilson, a hardened criminal with several previous felony convictions, would have blithely confessed to the double homicide of two police officers without the physical abuse that Wilson testified he encountered from police at Area 2. Wilson's confession ultimately was memorialized that evening by the written statement taken by O'Hara and Assistant State's Attorney Hyman. O'Hara, who was taking the most important confession of his 18 year career, who had asked the question of other witnesses from whom he had taken statements in the investigation, who claims to have anticipated that Wilson's eye injury might need medical attention and who had 12 hours to prepare his questions for Wilson, failed to ask this question. The Illinois Supreme Court ruled that the confession should not have been admitted into evidence during his first criminal trial because the State (not a party in this proceeding) failed adequately to prove that it had been voluntarily given.

Fourth, with the exception of Dr. Warpeha, every physician who testified, including the Respondents' own expert Dr. Spitz, concluded that the mark on Wilson's right thigh was a second degree burn. All of these physicians concluded that the second degree burn was consistent with a radiator burn. This medical testimony corroborates Wilson's testimony that he was burned on a radiator by Burge at Area 2. It is undisputed that Wilson had the thigh burn when Dr. Korn examined him on the evening of the 14th at Mercy Hospital. Thus, the possibility that Wilson received the burn while he was incarcerated on the evening of the 14th is eliminated. That only leaves two possible alternative explanations for the burn other than its having been inflicted at Area 2: the wagonmen and self-infliction.

We reject the Respondents' argument that the wagonmen inflicted the burn on Wilson's thigh. It is undisputed that there was no radiator in the squadrol that the wagonmen used to transport Wilson on the evening of the 14th, first to 11th and State, and then to Mercy Hospital. The Respondents' offered evidence suggesting that the wagonmen could have burned Wilson on a radiator in the hallway on the way to the lock-up at 11th and State. However, a police custodian testified that the radiator at 11th & State was in an open area with a lot of pedestrian traffic. Accordingly, we do not believe the burn occurred there.

We also reject the possibility that Wilson inflicted the burn on himself while he was being held at Area 2. The principal foundation for that possibility is the testimony of William Coleman. Coleman testified that Wilson told him in Cook County Jail in 1987 that Wilson had inflicted the burn on his thigh as a means of supressing the confession. But Coleman testified that Wilson said that he had been "slapped around"

by the police and that he decided "to increase the marks" by placing himself on the radiator. There also is evidence that Coleman received favorable treatment with respect to certain criminal charges, in exchange for testimony against Wilson and his brother in connection with a jail break. We also note that Coleman did not disclose his alleged conversation with Wilson to anyone for almost two years after it occurred. For these and other reasons, we choose not to credit Coleman's testimony.

We must make clear that Wilson did not contend in his testimony, and we make no finding, that any of the Respondents joined in the beating that he testified he received when he first arrived at Area 2 at six in the morning. But we believe that the Department has proven by a preponderance of the evidence that Wilson suffered some of his injuries, particularly his eye injury, after police brought him to Area 2. We also believe that the Department has proven that despite Respondents' knowledge of Wilson's injuries inflicted by police officers at Area 2, the Respondents failed to report them or see to it that Wilson received medical attention.

#### **B. BURGE MISTREATED WILSON**

The actual implements of physical abuse that Burge allegedly used against Wilson were not introduced as evidence in this proceeding, and in so far as the record discloses, were never found. We believe, however, that the Department has established by a preponderance of the evidence that Burge physically abused Andrew Wilson. Our conclusion is based upon a careful review of the entire record.

That record included the evidence presented by the Department regarding Burge's alleged mistreatment of Melvin Jones and Shadeed Mu'Min. It is true that in both instances a criminal court judge denied the motions to suppress on the ground that Burge physically abused Jones and Mu'Min in order to extract confessions. However, in the case of Jones, the criminal court judge ultimately granted the motion to suppress on the ground that Burge and other police officers not parties to this action violated Jones' 5th Amendment rights. We believe that the Jones case is particularly probative with respect to Burge.

Moreover, even if we had concluded that Burge did not personally abuse Wilson, Burge must be held responsible for the injuries that occurred to Wilson in Area 2 while Burge was in charge of that Area. Burge supervised the investigation that caused Wilson to be arrested, and the officers who had physical custody of Wilson during February 14th were under Burge's direct command. We believe that Burge did abuse Wilson. In addition, it is beyond debate, in our view, that Burge was in a position to prevent abuse by others, and he failed to prevent that abuse.

#### **C. YUCAITIS DID NOT PHYSICALLY ABUSE WILSON**

We find that the Department did not prove by a preponderance of the evidence that Yucaitis participated in physically abusing Wilson. The evidentiary factors supporting our conclusion include the following.

Wilson first identified Yucaitis as someone who physically abused him at the suppression hearing in November 1982, regarding the admissibility of Wilson's confession in his first criminal trial. The written motion to suppress had not mentioned

Yucaitis. At the hearing, Wilson's lawyer asked him leading questions about Yucaitis's involvement, albeit without objection from the State. The testimony was:

Q. Did you recognize any of the police officers who were in that car as people who had come here to testify?

A. Only one.

Q. Do you remember what his name was?

A. No.

Q. Could that have been Yucaitis?

A. Yes, it was Yucaitis. Yes.

Q. After you were in that room for some time, did you talk to Officer Yucaitis?

A. Yucaitis.

Q. Yucaitis. Were you brought out of that room?

A. Yucaitis.

Q. Were you brought out of that room?

A. Yucaitis.

Q. Pardon me?

A. I am trying to figure out.

Defendant Officers' Ex. 112, Tr. 1138, 1144. Thus, Wilson identified Yucaitis only after that identification was suggested by his then attorney. Wilson also seemed uncertain and perplexed when it was suggested to him that Yucaitis abused him. This testimony suggests that Wilson was simply not certain in 1982, when his memory was much

fresher than it was when he testified in this proceeding in 1992, that Yucaitis was one of the persons who abused him.

Given Wilson's tentative identification of Yucaitis and the fact that Wilson did not even name Yucaitis as a defendant in his initial civil lawsuit in 1986, we find that Wilson's identification of Yucaitis is too tentative to support a finding that he participated in the physical abuse of Wilson.

**D. ALL OF THE RESPONDENTS KNEW THAT WILSON WAS MISTREATED**

Although we have concluded that the Department has not proved that Yucaitis participated in mistreating Wilson, and O'Hara is not accused of such mistreatment, we find that Yucaitis and O'Hara were each aware that Wilson was mistreated. The evidence is overwhelming that Yucaitis and O'Hara were in or near the room or rooms in which Wilson was held in Area 2 during February 14. Under these circumstances, it is substantially more likely than not that each knew that Wilson was being abused.

It is undisputed that Yucaitis left Area 2 at approximately 3:00 and probably would not have known of abuse, if any, that occurred after that time. However, Wilson testified that he was mistreated in the morning. Furthermore, Yucaitis was plainly present when Wilson first arrived at Area 2 and, as we noted above, we are convinced that Wilson's eye injury occurred at that time.

O'Hara was present for the entire day, including the confession in the early evening. Because we have found that Wilson received substantial injuries prior to his confession, including a very visible injury to his eye, we find it implausible that O'Hara did not know of those injuries at or prior to the time the confession occurred.

Finally, because we have found that Burge participated in abusing Wilson, we obviously must conclude that he was aware of that abuse.

## VI.

### PUNISHMENT

After having reviewed all of the facts and circumstances, including the fact that Burge was a police lieutenant having supervisory responsibility for over 50 police officers, we find that he should be separated from the Department.

After having reviewed all of the facts and circumstances, including the fact Burge was the direct supervisor of Yucaitis and O'Hara, we find that Yucaitis and O'Hara should each serve fifteen months suspension. We find this passage from Judith N. Shklar's book entitled The Faces of Injustice to be particularly instructive:

Public servants are even more likely to be passively unjust, being by training unwilling to step outside the rules and routines of their offices and peers, afraid to antagonize their superior or to make themselves unduly conspicuous. The resulting injustice is not due to natural forces nor to a particularly unjust system, but to many hands in general, who need to be reminded constantly of the consequences of their inaction.

In closing, we strongly urge the Superintendent and the State's Attorney consider using video tapes to record confessions, at least in high profile cases. We certainly are aware that video tapes do not necessarily furnish conclusive evidence, but video tapes

could be useful in preserving confessions, as well as protecting their own personnel from erroneous allegations of coerced confessions.

## CHARGES AND FINDINGS

Commander Jon Burge was alleged to have violated the following Rules:

- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.
- Rule 5: Failure to perform any duty.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10: Inattention to duty.
- Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

Detective Patrick O'Hara was alleged to have violated the following Rules:

- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 5: Failure to perform any duty.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 10: Inattention to duty.
- Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is

contrary to the policy, orders or directives of the Department.

Detective John Yucaitis was alleged to have violated the following Rules:

- Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.
- Rule 5: Failure to perform any duty.
- Rule 6: Disobedience of an order or directive, whether written or oral.
- Rule 8: Disrespect to or maltreatment of any person, while on or off duty.
- Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.
- Rule 10: Inattention to duty.
- Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

The Police Board of the City of Chicago caused a hearing on these charges against Commander Jon Burge, Detective Patrick O'Hara and Detective John Yucaitis to be had before Michael G. Berland, Hearing Officer of the Police Board of the City of Chicago, on February 10, 11, 12, 13, 19, 20, 21, 24, 25, 26 and 28, 1992, and March 2, 5, 6, 7, 16, 18, 19 and 20, 1992.

Following the hearing, the members of the Police Board read and reviewed the certified transcription of the proceedings of the hearing and all exhibits submitted into evidence. Michael G. Berland, Hearing Officer, made an oral report and conferred with the Police Board before it rendered a decision.

The Police Board of the City of Chicago, as a result of its investigation of the charges, finds and determines that:

1. The Respondents, Jon Burge, Patrick O'Hara and John Yucaitis were at all times employed by the Department of Police of the City of Chicago.

2. The charges were filed in writing and a Notice, stating the time, date and place, when and where a hearing of the charges was to be held, together with a copy of the original charges, was served upon each of the Respondents more than five (5) days prior to the hearing on the charges.

3. The hearing was conducted before Michael G. Berland, Hearing Officer of the Police Board of the City of Chicago, on February 10, 11, 12, 13, 19, 20, 21, 24, 25, 26 and 28, 1992, and March 2, 5, 6, 7, 16, 18, 19 and 20, 1992.

4. Throughout the hearing, each of the Respondents did appear in person and was represented by counsel of his own choosing.

5. Respondents agreed to a consolidation of cases 91-1856, 91-1857 and 91-1858 for the purposes of the hearing.

#### FINDINGS ON CHARGES AGAINST COMMANDER JON BURGE

6. The Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, without justification or proper cause, and either alone or in concert with other police officers at Area 2, strike and/or kick and/or otherwise physically abuse or maltreat Andrew Wilson, a person then under Department control; and/or he did cause or aggravate physical injury or injuries to the person of Andrew Wilson.

B. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department, and therefore did impede the Departments effort to achieve its policy and/or goals and/or bring discredit upon the Department.

7. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 3: Any failure to promote the Department's efforts to implement its policy or accomplish its goals.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, without justification or proper cause, while serving as a lieutenant of police and/or in a supervisory capacity, and either alone or in concert with other police officers at Area 2, strike and/or kick and/or otherwise physically abuse or maltreat Andrew

Wilson, a person then under Department control; and/or he did cause or aggravate physical injury or injuries to the person of Andrew Wilson.

B. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, while serving as a lieutenant of police and/or in a supervisory capacity, and after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department, and therefore did fail to promote the Departments effort to implement its policy and/or accomplish its goals.

8. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 5: Failure to perform any duty.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, and did improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department.

B. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson, a person

then under Department control, have been physically injured, and did improperly fail to promptly provide for or secure medical attention or care for said Andrew Wilson.

9. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment, and therefore did violate the provisions of the Chicago Police Department General Order 78-1, including but not limited to Paragraphs III A and III B thereof.

B. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, and therefore did improperly fail to immediately notify the Department or a supervisory officer of said matter or matters; and/or he did fail to submit a written report concerning such matter or matters to his commanding officer; therefore he did violate the provisions of the Chicago Police Department General Order 82-14, including but not limited to Addendum 2, Paragraph II, A 4 thereof.

C. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, while serving as a lieutenant of police and/or in a supervisory capacity, and having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, did improperly fail to initiate a complete and/or comprehensive investigation concerning said matter or matters; therefore, he did violate the provisions of the Chicago Police Department General Order 82-14, including but not limited to Addendum 2, Paragraphs II A 5 and/or II A 6 thereof.

10. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, without justification or proper cause, and either alone or in concert with other police officers at Area 2, strike and/or kick and/or otherwise physically abuse or maltreat Andrew Wilson, a person then under Department control; and/or he did cause or aggravate physical injury or injuries to the person of Andrew Wilson.

11. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, either alone or in concert with other police officers at Area 2, engaged in an unjustified verbal and/or physical altercation with Andrew Wilson.

12. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 10: Inattention to duty.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson had been physically injured, improperly fail to provide for or secure medical care or attention for said Andrew Wilson.

13. Respondent Jon Burge, Star #338, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

A. Respondent Jon Burge did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to report said matter or matters to the Department.

**FINDINGS ON CHARGES AGAINST DETECTIVE PATRICK O'HARA**

14. Respondent Detective Patrick O'Hara, Star #2888, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

A. Respondent Detective Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department; therefor he did impede the Departments effort to achieve its policy and/or goals and/or bringing discredit upon the Department.

15. Respondent Detective Patrick O'Hara, Star #2888, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 5: Failure to perform any duty.

A. Respondent Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and other police officers were physically abusing or maltreating Andrew Wilson, a

person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department.

B. Respondent Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson, a person then under Department control, have been physically injured, improperly fail to promptly provide for a secure medical attention or care for said Andrew Wilson.

16. Respondent Detective Patrick O'Hara, Star #2888, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral.

A. Respondent Detective Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to take any action to stop such physical abuse or maltreatment, thereby violating the provisions of the Chicago Police Department General Order 78-1, including but not limited to Paragraphs III A and III B thereof.

B. Respondent Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant John Burge

and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to immediately notify the Department or a supervisory officer of said matter or matters; and/or he did further fail to submit a written report concerning such matter or matters to his commanding officer, thereby violating the provisions of the Chicago Police Department General Order 82-14, including but not limited to Addendum 2, Paragraph II, A4 thereof.

C. Respondent Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson had been physically injured, improperly fail to promptly provide for or secure medical care or attention for said Andrew Wilson.

17. The Respondent Detective Patrick O'Hara, Star #2888, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 10: Inattention to duty.

A. Respondent Detective Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson was physically injured improperly fail to promptly provide for or secure medical care or attention for Wilson.

18. Respondent Detective Patrick O'Hara, Star #2888, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

A. Respondent Patrick O'Hara did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person then under Department control, improperly fail to report said matter or matters to the Department.

**FINDINGS ON CHARGES AGAINST DETECTIVE JOHN YUCAITIS**

19. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is guilty in part of violating, and not guilty in part of violating, to wit:

Rule 2: Any action or conduct which impedes the Department's efforts to achieve its policy and goals or brings discredit upon the Department.

A. Respondent Detective John Yucaitis did not on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, without justification or proper cause, strike and/or kick and/or otherwise physically abuse or maltreat Andrew Wilson, a person then under Department control; and/or, he did not further thereby cause or aggravate physical injury or injuries to the person of Andrew Wilson.

B. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge, and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department; thereby, he did impede the Department's efforts to achieve its policy and/or goals and/or thereby bring discredit upon the Department.

20. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 5: Failure to perform any duty.

A. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person under Department control, improperly fail to take any action to stop such physical abuse or maltreatment or to report same to the Department.

B. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson, a person under Department control, had been physically injured, improperly fail to promptly provide for or secure medical attention or care for said Andrew Wilson.

21. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 6: Disobedience of an order or directive, whether written or oral.

A. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon

Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person under Department control, improperly fail to take any action to stop such physical abuse or maltreatment, thereby violating the provisions of Chicago Police Department General Order 78-1, including but not limited to paragraphs III A and III B, thereof.

B. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person under Department control, improperly fail to immediately notify the Department or a supervisory officer of said matter or matters; and/or he did further fail to submit a written report concerning said matter or matters to his commanding officer, thereby violating the provisions of Chicago Police Department General order 82-14, including but not limited to Addendum 2, paragraph II, A, 4, thereof.

22. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is not guilty of violating, to wit:

Rule 8: Disrespect to or maltreatment of any person, while on or off duty.

A. Respondent Detective John Yucaitis did not on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, without justification or proper cause, strike and/or kick and/or otherwise physically abuse or maltreat Andrew Wilson, a person then under Department control;

and/or, he did not further thereby cause or aggravate physical injury or injuries to the person of Andrew Wilson.

23. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is not guilty of violating, to wit:

Rule 9: Engaging in any unjustified verbal or physical altercation with any person, while on or off duty.

A. Respondent Detective John Yucaitis did not on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, either alone or in concert with others engage in an unjustified verbal and/or physical altercation with Andrew Wilson.

24. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 10: Inattention to duty.

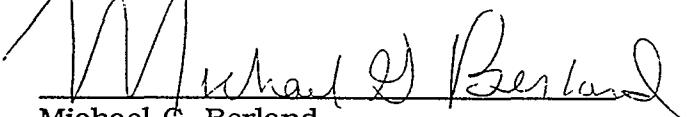
A. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Andrew Wilson had been physically injured, improperly fail to promptly provide for or secure medical care or attention for said Andrew Wilson.

25. The Respondent Detective John Yucaitis, Star #7744, charged herein, contrary to the Rules and Regulations, is guilty of violating, to wit:

Rule 22: Failure to report to the Department any violation of Rules and Regulations or any other improper conduct which is contrary to the policy, orders or directives of the Department.

A. Respondent Detective John Yucaitis did on or about February 14, 1982 at or in the vicinity of Area 2 Police Headquarters, 9059 South Cottage Grove, Chicago, Illinois, after having knowledge or reasonable basis to believe that Police Lieutenant Jon Burge and/or other police officers at Area 2 were physically abusing or maltreating Andrew Wilson, a person under Department control, improperly fail to report said matter or matters to the Department.

By reason of the findings of fact the Respondent Commander Jon Burge, is guilty of violations of Rules 2, 3, 5, 6, 8, 9, 10 and 22, Detective Patrick O'Hara, is guilty of violations of Rules 2, 5, 6, 10 and 22, and Detective John Yucaitis, is guilty of violations of Rules 2, 5, 6, 10 and 22, and not guilty of violations of Rules 8 and 9, cause exists for the separation and discharge of Commander Jon Burge. Detective Patrick O'Hara and Detective John Yucaitis are suspended from their positions with the Department of Police and from the services of the City of Chicago from November 12, 1992 to and including February 11, 1993, at which time they will be restored to duty.

  
Michael G. Berland  
Hearing Officer

D E C I S I O N

The members of the Police Board, having read and reviewed the certified copy of the transcription of the hearing, having received the oral report of the Hearing Officer, Michael G. Berland, and having conferred with the Hearing Officer, hereby adopts all findings and;

**IT IS HEREBY ORDERED** that the Respondent, Jon Burge, by reason of the findings that he is guilty of violating Rules 2, 3, 5, 6, 8, 9, 10 and 22 is separated from his position as a Commander with the Department of Police and from the services of the City of Chicago.

**IT IS HEREBY ORDERED** that the Respondent, Patrick O'Hara, by reason of the findings that he is guilty of violating Rules 2, 5, 6, 10 and 22 is suspended from his position as a Detective with the Department of Police and from the services of the City of Chicago from November 12, 1991 to and including February 11, 1993.

**IT IS HEREBY ORDERED** that the Respondent, John Yucaitis, by reason of the findings that he is guilty of violating Rules 2, 5, 6, 10 and 22 is suspended from his position as a Detective with the Department of Police and from the services of the City of Chicago from November 12, 1991 to and including February 11, 1993.

To summarize the vote:

Seven Board members voted to find that the Department proved by a preponderance of the evidence that Burge participated in physically abusing Wilson at

Area 2 on February 14, 1981, and knew about the physical abuse, but failed to stop it, report it and obtain medical attention for Wilson, with Russ Ewert dissenting;

Six Board members voted to find that the Department failed to prove by a preponderance of the evidence that Yucaitis participated in physically abusing Wilson, with Art Smith and Victor Armendariz dissenting;

Six Board members voted to find that the Department proved by a preponderance of the evidence that Yucaitis knew about Wilson being physically abused by police officers at Area 2 and failed to stop it, report it and obtain medical attention for Wilson, with Brian Crowe and Russ Ewert dissenting;

Six Board members voted to find that the Department proved by a preponderance of the evidence that O'Hara knew about Wilson being physically abused by police officers at Area 2 and failed to stop it, report it and obtain medical attention for Wilson, with Brian Crowe and Russ Ewert dissenting;

Seven Board members voted to separate Burge from the Department, with Russ Ewert dissenting;

Six Board members voted to suspend Yucaitis for fifteen months, with Victor Armendariz and Art Smith dissenting because they believed a longer suspension was in order;

Six Board members voted to suspend O'Hara for fifteen months, with Victor Armendariz and Art Smith dissenting because they believed a longer suspension was in order.

DATED AT CHICAGO, ILLINOIS, COUNTY OF COOK, STATE OF ILLINOIS,  
THIS 16<sup>th</sup> DAY OF February, A.D., 1993.

Albert C. Cook  
John C. Cawie  
Scott J. Davis  
John D. Gandy  
R. J. Gant  
John J. Hart  
Edward Dolce  
Michael J. Nease

Executive Director of the Police Board

RECEIVED A COPY OF THE  
FOREGOING COMMUNICATION

THIS \_\_\_\_ DAY OF \_\_\_\_\_, 1993.

SUPERINTENDENT OF POLICE

FBI

## TRANSMIT VIA:

- Teletype  
 Facsimile  
 AIRTEL

## PRECEDENCE:

- Immediate  
 Priority  
 Routine

## CLASSIFICATION:

- TOP SECRET  
 SECRET  
 CONFIDENTIAL  
 UNCLAS E F T O  
 UNCLAS

Date 3/30/93

TO : DIRECTOR, FBI (44A-CG-78234)  
 (ATTN: CIVIL RIGHTS UNIT)

FROM : SAC, CHICAGO (44A-CG-78234) (P) (SQ.12)

SUBJECT : UNSUB(S);  
 COMMANDER JON G. BURGE,  
 CHICAGO POLICE OFFICER,  
 CHICAGO POLICE DEPARTMENT,  
 CHICAGO, ILLINOIS;

b6 -2  
b7C -2

[REDACTED] VICTIM;  
 CIVIL RIGHTS  
 OO: CHICAGO

Re Chicago airtel to the Bureau, dated February 17, 1993.

On March 23, 1993, captioned case was discussed with Assistant United States Attorney (AUSA) [REDACTED] b6 -3 who advised that he is more incline to recommend a declination b7C -3 of prosecution. However, he will discuss the results of this meeting with his supervisor, [REDACTED] before he renders his final prosecutive opinion.

AUSA [REDACTED] further advised that he will check with DEPARTMENT OF JUSTICE (DOJ) Attorney [REDACTED] to see if she has any additional reasons to criminally pursue the case since the statute of limitations has expired and since BURGE has been separated from the CHICAGO POLICE DEPARTMENT.

3 - Bureau  
 ② - Chicago  
 JLS/jls  
 (5) Jy

1\*

44A-CG-78234-75

SEARCHED	INDEXED
SERIALIZED	FILED
MAR 30 1993	
FBI - CHICAGO	

*[Handwritten signatures and initials over the stamp]*

Approved: \_\_\_\_\_ Transmitted \_\_\_\_\_ Per \_\_\_\_\_  
 (Number) (Time)

614A-CG-78234-76

SEARCHED	INDEXED
SERIALIZED	FILED
FEB 18 1993	
FBI - CHICAGO	
VW	

FBI

## TRANSMIT VIA:

- Teletype  
 Facsimile  
 AIRTEL

## PRECEDENCE:

- Immediate  
 Priority  
 Routine

## CLASSIFICATION:

- ~~TOP SECRET~~  
 ~~SECRET~~  
 ~~CONFIDENTIAL~~  
 UNCLAS E F T O  
 UNCLAS

Date 2/17/93

TO : DIRECTOR, FBI (44A-CG-78234)  
 (ATTN: CIVIL RIGHTS UNIT)

FROM : SAC, CHICAGO (44A-CG-78234) ~~(X)~~ (SQ.12)

SUBJECT : UNSUB(S);  
 COMMANDER JON G. BURGE,  
 CHICAGO POLICE OFFICER,  
 CHICAGO POLICE DEPARTMENT,  
CHICAGO, ILLINOIS:  
 [REDACTED] - VICTIM;  
 CIVIL RIGHTS  
 OO: CHICAGO

Re Chicago airtel to the Bureau, dated February  
 8, 1993.

Enclosed for the Bureau is the original and two (2) copies of a Letterhead Memorandum (LHM) with attached copies of five (5) newspaper articles from three (3) local newspapers dated February 11, 1993, concerning captioned investigation.

Also enclosed is a copy of the Findings & Decision of the CHICAGO POLICE BOARD regarding charges filed against Commander JON BURGE, case number 91-1856, Detective [REDACTED]  
 [REDACTED] case number 91-1857, and Detective [REDACTED] case number 91-1858.

b6 -4,-7  
 b7C -4,-7

One copy of the LHM, with attachments and a copy of the Findings & Decision of the CHICAGO POLICE BOARD was sent to the UNITED STATES ATTORNEY'S OFFICE, Chicago, Illinois.

- 3 - Bureau (Enc. 4) (with 5 attachments)  
 ② - Chicago  
 JLS/adw  
 (5)

1\*

Approved: \_\_\_\_\_ Transmitted \_\_\_\_\_ Per \_\_\_\_\_  
 (Number) (Time)

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to  
File No.

Chicago, Illinois 60604  
February 17, 1993

UNSUB(S);  
COMMANDER JON G. BURGE,  
CHICAGO POLICE OFFICER,  
CHICAGO POLICE DEPARTMENT;  
[redacted] - VICTIM;  
CIVIL RIGHTS

b6 -2  
b7C -2

On February 16, 1993, [redacted] b6 -2,-4,-5,-7  
CHICAGO POLICE BOARD, 1121 South State Street, Room 603, Chicago b7C -2,-4,-5,-7  
Illinois 60605, telephone [redacted] advised that on February  
10, 1993, the Board sustained the CHICAGO POLICE DEPARTMENT (CPD)  
charges against Commander JON G. BURGE, Detectives [redacted]  
and [redacted]. The Board found BURGE guilty of physically  
abusing [redacted] without justification in order to extract a  
confession. For this, the Board ordered BURGE's separation from  
his position as a commander with the CPD and from the services of  
the City of Chicago.

The Board also voted to suspend Detectives [redacted] arb6 -2,-4,-7  
[redacted] for failing to stop or report the abuse and for not b7C -2,-4,-7  
seeking medical attention for [redacted]. The suspension was from  
November 12, 1991 to February 11, 1993 (15 months).

[redacted] advised that the Board's decision was not based b6 -2,-4,-5  
[redacted] testimony alone, but on "a preponderance of evidence" b7C -2,-4,-5  
that collaborated his testimony. [redacted] advised that the Board is  
only required to reach its conclusion based on "a preponderance  
of evidence", meaning that a reasonable person who examines the  
evidence before him would believe that [redacted] was physically  
abused. However, he advised that to convict the officers in a  
criminal case, the requirements would be much higher, which is,  
"beyond a reasonable doubt."

3 - Bureau  
1 - USA Chicago (AUSA [redacted])  
2 - Chicago (44A-CG-78234)  
JLS/adw  
(6)

b6 -3  
b7C -3

44A-CG-78234

b6 -4,-5,-7  
b7C -4,-5,-7

[redacted] advised that BURGE's attorneys have indicated that they will file a "petition for administrative review" in the Cook County Circuit of Appeals. He added that this is the first step in the sometimes long appeals process. [redacted] stated that CPD Superintendent MATT RODRIGUEZ reduced [redacted] and [redacted] ranks from detectives to patrol officers. However, the FRATERNAL ORDER OF POLICE plans to file a grievance to oppose the demotions.

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.) Page 1  
Section 1Chicago Tribune  
Chicago, IllinoisDate: February 11, 1993  
Edition North Sports FinalTitle: Police Board Fires  
Burge For Brutality

Character:

or

Classification:

Submitting Office: Chicago

Indexing:

# Police Board fires Burge for brutality

By Sharman Stein

Acting on one of the most divisive, long-lasting and heated controversies in the history of the Chicago Police Department, the Police Board voted Wednesday to dismiss Cmdr. Jon Burge on charges that he tortured convicted cop-killer Andrew Wilson 11 years ago.

The board, which had considered the case for 15 months, voted at the same time to reinstate Detectives John Yucaitis and Patrick O'Hara as of Friday.

Burge's attorney said the case will be appealed.

Yucaitis, O'Hara and Burge were all suspended without pay in November 1991 after an internal investigation by the police office of professional standards charged Burge and Yucaitis with torturing

Wilson, and O'Hara with knowing about the mistreatment but doing nothing to stop it.

Wilson and his brother, Jackie, were convicted of killing Police Officers William Fahey and Richard O'Brien on Feb. 9, 1982.

Burge is the highest-ranking Chicago police officer dismissed in nearly 20 years. The implications of the case grew more controversial during the past year when Los Angeles erupted into riots after the police officers charged with beating Rodney King were acquitted.

"We found that the [police] department proved by a preponderance of evidence that Cmdr. Burge did physically abuse Andrew Wilson," said Albert Maule, president of the Police Board, during a news conference in his downtown

law offices.

The most convincing fact in the case, Maule said, were the burn marks on Wilson's thigh, corroborating his testimony that Burge had handcuffed him against a radiator.

The board also found convincing, Maule said, testimony from two other criminal suspects who testified that Burge also tortured them while they were in custody.

The board recommended in its

See Burge, pg. 18

# Burge

Continued from page 1

opinion that the Police Department and the Cook County state's attorney's office use videotapes to record confessions "at least in high-profile cases" to provide additional information and to "protect its own personnel from erroneous allegations of coerced confessions."

Maule emphasized, however, that the board's findings, made after three months of deliberations, were based on the Wilson case alone. He said the decision was based on the voluminous evidence, records and testimony and not "from out of the streets or TV."

"Andrew Wilson we recognize to be a convicted felon, convicted twice for the murder of two police officers," Maule said. "We combed the records for independent evidence to corroborate his story because he does have such a criminal record. If the case were resting solely on the testimony of Andrew Wilson, it is doubtful we would have reached this resolution.

"We did not make findings on any other cases. This is not an indictment of the entire Police Department."

Board member Russ Ewert, a businessman, cast the only vote against dismissing Burge. Ewert declined to elaborate on his reasoning, saying, "I didn't believe the evidence presented was enough."

John Dineen, president of the Fraternal Order of Police, articulated a sentiment widespread among police officers and their supporters who believed from the beginning of the hearings that the city intended to sacrifice the officers to a public climate hostile toward police officers, especially those involved in racially charged controversies.

The three officers charged with brutality are all white, as were the two officers who were killed. The Wilson brothers are black.

"It is a travesty of justice," Dineen said. "They were thrown to the wolves to appease the public. It sends the wrong message to police officers; the message is you become a political football if you do your job."

"Our reaction is one of disappointment; we do not think that a case was proved on any of them," said Joseph Roddy, one of the attorneys representing the officers.

"We will definitely appeal the findings," Roddy said. That appeal will be filed to the Cook County Circuit Court within the next 35 days, Roddy said.

"This is a case where two Criminal Court juries did not believe the Wilson brothers [during their murder trials]. Two civil juries in the federal courts did not believe the Wilsons when they sued. Now we have the Police Board, who does not see or hear the witnesses, decide the case on the basis of a transcript," Roddy said. "The whole thing is a political circus. Sometimes the loudest voices in the community prevail over reason and sense."

Flint Taylor, the attorney who represented Wilson in his two unsuccessful federal lawsuits against Burge, said justice had finally been done.

"The person in charge of the systematic torture and abuse in the Police Department has been fired," Taylor said.

He said that a report issued in 1991 by two investigators for the office of professional standards cited other instances of abuse in the police ranks.

"We think this is a start, but we think they should clean house of the others and implement the OPS report. We do not feel this is the end of the matter," Taylor said.

Daniel Reidy, the attorney representing the city in its efforts to dismiss the officers, said he believed that the physical evidence corroborating Wilson's testimony was "very significant in making it clear he was abused. . . . In the abstract, it would have been hard to believe Wilson's testimony."

"We are very pleased about

Burge and commend the Police Board for such an unprecedented decision," said Mary Powers, who heads Citizen's Alert, a group that works against police abuse. "It is the first time in 20 years anyone of this rank has been dismissed."

The Police Board, which is made up of nine civilians appointed by the mayor, began conducting its hearings into the dismissal charges in February 1992, after the OPS recommended that the three officers be dismissed. Then-Police Supt. LeRoy Martin agreed.

The hearings lasted for five weeks. The board members, who did not attend the hearings, based their decision on some 4,000 pages of testimony, in addition to thousands of pages of testimony from previous court proceedings, including the initial criminal trials against Wilson for the murders of Fahey and O'Brien.

The charges against the officers had remained unproved after a federal civil trial stemming from Wilson's brutality lawsuit. The officers have never faced criminal charges.

The first federal trial in 1989 ended with a hung jury. In a second trial, the jury found that Burge did not participate in Wilson's mistreatment or permit his officers to conduct torture, but raised questions about the circumstances of the case.

Wilson said that Burge and the other officers tortured and brutalized him during his 17 hours in police custody in the old Brighton Park Area detective headquarters on the South Side, including giving him electrical shocks to his head and genitals, while he was being questioned about the slay-

ings.

He said first Yucaitis and later Burge shocked him by attaching clips to his nose and an ear and cranking a "black box" to produce an electrical current. Wilson said Burge attached the clips to his ears, but that when Wilson nudged off the clips, Burge stretched him across the radiator in the investigation room, handcuffed him in place and reattached the clamps to his little fingers.

In addition to being shocked, Wilson said Burge and others choked him with a plastic garbage bag held around his neck and beat him.

Wilson, then 29, was driving in a car with his brother near 81st and Morgan Streets when he was pulled over by Fahey and O'Brien. In a statement Wilson made to police, which was later disqualified on the grounds it was coerced, Wilson said he grabbed Fahey's gun and shot him once in the head before shooting O'Brien and then shot O'Brien four more times after he fell to the ground.

The brothers were convicted in the killings and are serving life terms in prison without possibility of parole. Andrew Wilson's appeal of his second murder conviction is still pending in the Illinois Appellate Court.

Burge, 44, joined the police force 23 years ago, in March 1970. He is a decorated Vietnam War veteran who was promoted by Martin from lieutenant to an area detective commander during the years that elapsed between Wilson's original charges of torture and Burge's suspension in 1991.

Tribune reporter William Recktenwald contributed to this article.

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.)

Page 5

Chicago Sun-Times  
 Chicago, Illinois  
 Date: February 11, 1993  
 Edition: Final Edition

Title: Burge Fired In Torture Case

Character:

or

Classification:

Submitting Office: Chicago

xing:

# Burge Fired in Torture Case

## Guilty of Abusing '82 Murder Suspect

By Charles Nicodemus  
 Staff Writer

The Chicago Police Board on Wednesday found Cmdr. Jon Burge guilty of "physically abusing" an accused cop killer 11 years ago and ordered the controversial officer fired from the police force.

Concluding the most celebrated police brutality case in Chicago's recent history, the eight-member board also voted to suspend for 15 months two of Burge's detectives, John Yucaitis and Patrick O'Hara.

Police Board Chairman Albert Maule said the board concluded that the two veteran detectives knew about Burge's Feb. 14, 1982, torture of career criminal Andrew Wilson but failed to stop it, report it or get Wilson medical attention. The board found Yucaitis not guilty of abusing Wilson.

Since the suspensions date back to Nov. 13, 1991, when the department's Office of Professional Standards brought charges, Yucaitis and O'Hara will be eligible to return to duty tomorrow.

Wilson, who was twice convicted of murdering Chicago police officers William Fahay and Richard O'Brien during a routine traffic stop in 1982, testified at the six-week Police Board hearing last year that he had been tortured to force his confession.

He said he was abused with electrical shocks from a "black box," burned by being pressed against a radiator, suffocated and threatened with a pistol.

Maule said the board took a final vote Wednesday during a closed-door session. He stressed that the board reached its decisions by "a preponderance of evidence," as board procedures require. Jurors in a criminal case must meet the higher standard of being convinced "beyond a reasonable doubt."

Police Supt. Matt L. Rodriguez said in a telephone interview: "There are no winners

in something like this. We will learn from this, and we will be a better police department. All we can do is make certain this doesn't happen again."

Burge, contacted late Wednesday, had no comment. He has denied interrogating Wilson. Mayor Daley said in a statement he supported the decision and added: "We don't condone brutality of any kind."

Maule and other board members said they "felt no pressure" to sustain the Police Department charges against Burge and the two detectives. Wilson's claims had stirred public demonstrations at police headquarters and City Hall and had brought criticism of the Police Department from Amnesty International.

Maule told a press conference late Wednesday that the board would not have upheld the mistreatment charges "based on Andrew Wilson's testimony alone." But he said the board also was convinced by:

- The severe burns that were found on Wilson's thigh, which Wilson said he suffered when he was spread-eagled across a radiator at Area 2 headquarters.
- Testimony from convicts Melvin Jones and Shadeed Mu'mim that they also had been abused while being interrogated by Burge in connection with other crimes.

Police Board member Russ Ewert voted against dismissing Burge but would not explain his vote.

Contributing: Jim Casey

(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.)

Page 4  
Chicago Sun-Times  
Chicago, IllinoisDate: February 12, 1993  
Edition: Final EditionTitle: Cops In Brutality Case  
Lose Detective Rank

Character:

or

Classification:  
Submitting Office: Chicago

Indexing:

# Cops in Brutality Case Lose Detective Rank

By Charles Nicodemus  
Staff Writer

Two veteran detectives who served 15-month suspensions in the Andrew Wilson police brutality case will take another "hit" when they return to work today: They've been busted to patrol officers.

Police spokesman William P. Davis said Detectives John Yucaitis, 50, and Patrick O'Hara, 53, are being reduced to "their career rank" by Supt. Matt Rodriguez.

For O'Hara, who has 30 years of service, it will mean a cut in pay from about \$50,500 to \$48,000. For Yucaitis, a policeman for 28 years, the cut is from about \$49,000 to \$46,700.

John Dineen, president of the Fra-

ternal Order of Police, said a grievance will be filed opposing the demotions.

The Police Board ruled Wednesday that both had been aware that Cmdr. Jon Burge had "physically abused" suspected cop killer Wilson during questioning in February, 1982, but had failed to report it or seek medical help for Wilson.

Burge, who was fired Wednesday by the Police Board, will file a "petition for administrative review" in Circuit Court within 35 days, the first step in appealing his dismissal, according to his attorney, Joseph Roddy.

Burge, 45, who had 21 years of service, will be eligible for his pension at age 50, police pension sources said.

In a phone call from the Pontiac Correctional Center, where he is serv-

ing a life sentence for murdering Chicago police officers William Fahey and Richard O'Brien, Wilson told one of his former lawyers, Jeffrey Haas:

"I'm very pleased that Burge was fired and received justice for torturing me. I'm upset Yucaitis" and another officer—not O'Hara—he accused of brutality "are not being fired." Wilson had no comment on O'Hara, whom he never accused of mistreating him.

Rodriguez said Thursday he was "ashamed" of any incident of brutality by his officers but that the Chicago Police Department remains "the best in the country." Mayor Daley said the Police Board action sends the message that police "can't mistreat the public" and that the system for punishing brutality "does work."

(Mount Clipping in Space Below)

**METRO**

(Indicate page, name of newspaper, city and state.)  
**Page 5**  
**Chicago Sun-Times**  
**Chicago, Illinois**  
**February 11, 1993**  
**Date:** Final Edition

Title: Metro

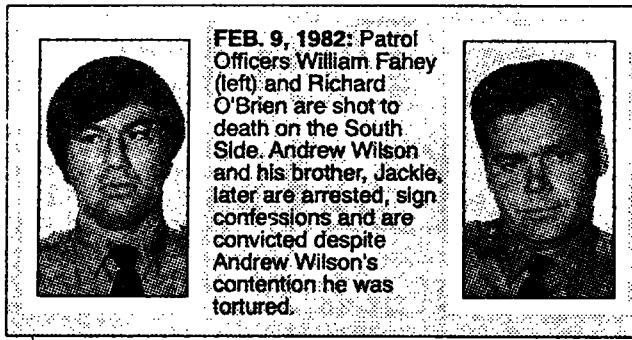
Character:

or

Classification:

Submitting Office: Chicago

Indexing:



**FEB. 9, 1982:** Patrol Officers William Fahey (left) and Richard O'Brien are shot to death on the South Side. Andrew Wilson and his brother, Jackie, later are arrested, sign confessions and are convicted despite Andrew Wilson's contention he was tortured.

**1983:** Police Department's Office of Professional Standards fails to sustain a brutality complaint in the case against Cmdr. Jon Burge and two of his detectives.

**AUG. 8, 1989:** Burge and two other officers are cleared by a federal jury of civil charges they tortured Andrew Wilson (pictured). But jury says city has an unwritten policy of using excessive force against suspected cop killers.



1982	1983	1984	1985	1986	1987	1988
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**NOVEMBER, 1990:** Police internal investigation into police torture completed, finds evidence of "systematic" abuse.

**DECEMBER, 1990:** Amnesty International calls for investigation of Chicago police torture charges.

**NOV. 8, 1991:** The Police Department, headed by Supt. LeRoy Martin, suspends Burge without pay, along with recommendation by the Office of Professional Standards that he be fired if charges are upheld.



**NOV. 25, 1991:** Police Board hearing begins, ending in late March, 1992.

**FEB. 10, 1993:** Burge is fired, and the two other officers are suspended.

1989	1990	1991	1992	'93
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(Mount Clipping in Space Below)

(Indicate page, name of newspaper, city and state.)

Page 3  
**Chicago Defender**  
**Chicago, Illinois**  
**February 13, 1993**  
**Date:** Vol. LXXXVII, No. 199  
**Edition:**

Title: Mayor: Burge Ruling Could Stop Brutality

Character:  
or  
Classification:  
Submitting Office: Chicago

Indexing:

# Mayor: Burge ruling could stop brutality

by Chinta Strausberg

Mayor Richard M. Daley and Police Supt. Matt Rodriguez Thursday said the firing of Commander Jon Burge, accused of using torture to elicit confessions, will send a message to stop police brutality.

Among other allegations, Burge is accused of using an electrical "black box" to shock suspects.

Interviewed at the Harold Washington Library during the second day of his educational summit, Daley, who has been under fire from Black and white activists who had accused the mayor of trying to protect Burge, said, "No one should use any type of physical abuse against any citizen in the city, in the state and the nation...."

He praised the board for making a "thorough review...and rendering a decision that was necessary under the circumstances."

Board President Albert Maule made it clear. "These are just three policemen out of more than 12,000 on the force and it is not an indictment of the entire police force," Maule said.

Most officers are hard working and do their jobs."

However, Ald. Robert Shaw (9) said the decision "did not go far enough." He wants criminal charges to be filed against Burge, which according to the police board's 60-page ruling, found him guilty of striking and/or kicking or "otherwise physically" abusing or maltreating murder suspect Andrew Wilson and causing the prisoner injury.

During a taped WMAQ radio talk show scheduled to air Sunday at 9 p.m., Rodriguez told reporters his department has lived through worse scandals and that his department's "tattered image is not as tattered as it might seem."

Allegations of police brutality, Rodriguez said, produce "no win-

ners..." He added, "We have a good department. We don't have a department of torturers."

During a WBBM radio taping which will air Sunday at 9:30 a.m., Ald. Edward M. Burke (14), a former policeman, said the ruling "is not good for morale (because) there are many good cops....They got a bad deal...."

Maule said the climate surrounding the arrest of Wilson was a tense one. He said the shooting deaths of the two officers "were the third and fourth murders of law enforcement officers in the city within a two-week period...all in Area 2...resulting in enormous amount of tension...to capture the assailants."

He was referring to Feb. 14, 1982, when accused cop killer Wilson claimed he was tortured by Area 2 police. Burge was commander of detectives at the time.

On Feb. 9, 1982, officers William Fahey and Richard O'Brien stopped Wilson's brown Chevrolet at 2 p.m. in the 8100 block of South Morgan Avenue.

Wilson shot both officers then took their revolvers and sped off. Burge, who was in charge of the Area 2 Violent Crimes unit, took charge of the investigation. Wilson was arrested Feb. 14, 1982. Charging police brutality, Wilson filed a civil lawsuit against the city, the police department and three detectives alleging that one officer used the "black box," an electrical shock torture device, on him.

His charges caught the eye of Amnesty International, which blasted the City of Chicago for not holding hearings and addressing the problem.

The group called on the Illinois attorney general to probe the charges after the "inadequate" investigation by the Office of Professional Standards and held several City Hall press conferences

(See BURGE page 24)

## Burge ruling

(BURGE, from page 3)  
denouncing the treatment of prisoners and alleged forced confessions.

Finance Chairman Ald. Edward M. Burke (14) held a hearing on Christmas Eve in 1990 but was criticized for selecting a day when many aldermen were on vacation.

Rodriguez said to ignore the ramifications of the board's decision would be tantamount to "hiding your head in the sand" and said the mistakes of the past will help make his department better.

He has appointed a committee headed by Assistant Deputy Supt. Ray Risley of the Internal Affairs Division to look into officers displaying behavioral problems.

He was referring to the 7-1 vote from the Chicago Police Board Wednesday night to fire Burge and to suspend two of his detectives, John Yucaitis and Patrick O'Hara, for 15 months.

The dissenting vote was from board member Russ Ewert, formerly head of the Drexel Bank.

Yucaitis and O'Hara can return to work today.

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

3/25/93

Assistant United States Attorney (AUSA) [redacted] b6 -3  
 advised that he is more incline to recommend a declination of [redacted] b7C -3  
 prosecution in regards to the JON G. BURGE civil rights case.  
 However, he will discuss the results of this meeting with his supervisor, [redacted] before he renders his final prosecutive opinion.

AUSA [redacted] further advised that he will check with DEPARTMENT OF JUSTICE (DOJ) Attorney [redacted] to see if she has any additional reasons to criminally pursue the [redacted] civil rights case of which BURGE is one of the listed subjects. Since the statute of limitation has expired and since BURGE has been separated from the CHICAGO POLICE DEPARTMENT.

b6 -2,-3  
b7C -2,-3

*3/23/93  
302  
AUSA  
DECLINATION  
CONSIDERATION*

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Investigation on 3/23/93 at Chicago, Illinois File # 44A-CG-78234

by SA [redacted] /jmc Date dictated 3/23/93

b6 -1  
b7C -1

44A-CG 78234-77

SEARCHED *OS* INDEXED *OS*  
SERIALIZED *OS* FILED *OS*

MAR 26 1993

FBI - CLEVELAND

[Redacted] *JG*

b6 -1  
b7C -1

FBI

## TRANSMIT VIA:

- Teletype  
 Facsimile  
 AIRTEL

## PRECEDENCE:

- Immediate  
 Priority  
 Routine

## CLASSIFICATION:

- TOP SECRET  
 SECRET  
 CONFIDENTIAL  
 UNCLAS E F T O  
 UNCLAS

Date 4/27/93

TO : DIRECTOR, FBI (44A-CG-78234)  
 (ATTN: CIVIL RIGHTS UNIT)

FROM : SAC, CHICAGO (44A-CG-78234) ~~(SAC)~~ (SQ.12)

SUBJECT : UNSUB(S);  
 COMMANDER JON G. BURGE,  
 CHICAGO POLICE OFFICER,  
 CHICAGO POLICE DEPARTMENT,  
 CHICAGO ILLINOIS.  
 [REDACTED] - VICTIM;  
 CIVIL RIGHTS  
 OO: CHICAGO

b6 -2  
b7C -2

Re Chicago airtel to the Bureau, dated 3/30/93.

On April 16, 1993, Department of Justice (DOJ) Attorney [REDACTED] telephone number [REDACTED] advised that he was recently assigned captioned case. [REDACTED] advised that after a review of the case, he is inclined to close it, since the incident occurred outside the five (5) year statute of limitations. However, the unresolved allegations regarding [REDACTED] must be addressed.

b3 -2  
b6 -2,-3  
b7C -2,-3

On April 23, 1993, Assistant United States Attorney (AUSA) [REDACTED] advised that he will recommend declining captioned case in view of the fact that JON G. BURGE and two of his detectives [REDACTED] and [REDACTED] were found guilty of physical abuse in another police custody case. Also, captioned allegation occurred outside the five (5) year statute of limitations.

b6 -3,-4,-7  
b7C -3,-4,-7

3 - Bureau  
 ② - Chicago  
 JLS/jls  
 (5)

44A-CG-78234-78

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SERIALIZED	FILED
APR 26 1993	
FBI - CHICAGO	

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Approved: \_\_\_\_\_ Transmitted \_\_\_\_\_ Per \_\_\_\_\_  
 (Number) (Time)

44A-CG-78234

On April 23, 1993, DOJ Attorney [redacted] advised that he will recommend declining captioned case since [redacted] no evidence was developed to sustain the allegation that [redacted] b3 -2 b6 -2,-3 b7C -2,-3

[redacted] Civil Rights were violated within the five (5) year limit, nor is there substantial evidence to support the theory of a continuing conspiracy to violate the Civil Rights of other suspects while in the custody of Commander BURGE and/or the Chicago Police Department. [redacted] further advised that he will request Chicago conduct a preliminary investigation into the [redacted] matter.

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

5/18/93

Assistant United States Attorney (AUSA) [redacted] b6 -3 advised that approximately one month ago he submitted his recommendation to decline the Civil Rights case in which JON G. BURGE is named as one of the subjects. However, he recently spoke with Department Of Justice (DOJ) Attorney [redacted] who advised that he also has submitted his recommendation to close instant case, and that recommendation is presently going through the proper channels for closing.

AUSA [redacted] advised that since he has conferred with DOJ, and as a matter of office policy, he will await closing notification from DOJ before advising of his declination in this matter.

5/17/93  
302

Investigation on 5/17/93 at Chicago, Illinois File # 44A-CG-78234

by SA [redacted] Date dictated 5/18/93

b6 -1  
b7C -1

44A-G-78234-79

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 18 1993	
FBI - CHICAGO	
MK	

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

5/5/93

Assistant United States Attorney (AUSA) [redacted] advised that he has forwarded his recommendation to decline the JON G. BURGE civil rights case to his supervisor. Who will review that recommendation, and if he concurs, the case will be declined by the UNITED STATES ATTORNEY'S OFFICE.

b6 -3  
b7C -3

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Investigation on 5/4/93 at Chicago, Illinois File # 44A-CG-78234 -80  
by SA [redacted] Date dictated 5/5/93 b6 -1  
b7C -1

This document contains neither recommendations nor conclusions of the FBI. It is the property of the FBI and is loaned to your agency; it and its contents are not to be distributed outside your agency.

19-cv-4048(FBI)-824

(X)  
m

44A-C-78234-80

SEARCHED 95 INDEXED 98  
SERIALIZED 95 FILED 98

MAY 06 1993

FBI - CHICAGO

m

19-cv-4048(FBI)-826

Memorandum



Subject

Notice of File Closing  
CIVIL RIGHTS MATTER

Date

18 MAY 1993

To

Director  
Federal Bureau of Investigation

From

James P. Turner, Acting  
Assistant Attorney General  
Civil Rights Division

Reference is made to your field office file captioned as on  
the attached closing form and numbered 44A-CG-78234

This matter has been closed as of the date on the attached form.

Per the Commissioner,  
Close

#4  
MAY 21 1993

44A-CG-78234-81

SEARCHED	INDEXED
SERIALIZED	FILED
MAY 21 1993	
FBI - CHICAGO	

b6 -1  
b7C -1

CIVIL RIGHTS DIVISION

Notice to Close File

18 MAY 1993

File No. 144-23-2321 Date \_\_\_\_\_

Re: UNSUB(S);  
Commander Jon G. Burge,  
Chicago Police Officer,  
Chicago, Illinois Police Department;  
[redacted] - Victim  
CIVIL RIGHTS

b6 -2  
b7C -2

It is recommended that the above referenced matter be closed for the following reasons:

1. Date of Incidents: 1974 - 1985

2. Synopsis of Facts and Reasons for Closing:

This matter involves an investigation into a series of police brutality/torture allegations at Chicago, Illinois Area II Police Station. The investigation eventually centered on Police Commander Jon Burge and two of his command, Detectives [redacted] and [redacted]. The allegations include charges that these police officers gave criminal suspects electrical shocks by attaching alligator clips to various parts of their bodies, then generating current by a hand-crank telephone box. The allegations also include charges that the officers utilized a practice known as "bagging", which is the placing of plastic bags

b6 -4,-7  
b7C -4,-7

[redacted]  
\_\_\_\_\_  
Attorney

b6 -3  
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To: Records Section  
Office of Legal Administration

The above numbered file has been closed as of this date.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Chief, Criminal Section

FORMERLY CVR-3 FORM CL-3

or typewriter covers tied over the head and around the neck of a suspect, causing him to believe he would be suffocated. Burge, [redacted] and [redacted] reportedly used these tactics, and others, in order to obtain confessions and other information in criminal investigations.

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These allegations prompted wide-spread media coverage and led to an in-depth Chicago Police Department Office of Professional Standards investigation into the charges. This local investigation resulted in an 88 page Special Report detailing allegations of abuse against the three subjects. The investigation was monitored by the Criminal Section and the FBI in an attempt to develop evidence supporting prosecution of Commander Burge, Detective [redacted] and Detective [redacted] on federal charges for any incident discovered to have prosecutive merit and which occurred within the statute of limitations. The investigation was not successful in developing evidence of any incidents involving Burge, [redacted] and [redacted] alleged to have occurred within the five year statute of limitations. The FBI did receive evidence relative to one incident which occurred within the statutory period, and which appears to have merit, but involving other subjects. As that matter does not involve any of the subjects named in this captioned investigation, it will be investigated further under a different DJ file number.<sup>1/</sup>

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This matter was originally closed by Short Form on March 15, 1991, as it appeared that all the alleged incidents occurred outside the five year statute of limitations. When it appeared that the alleged use of torture to exact confessions was not a one time incident, but may have been part of a pattern of behavior on the three officers' part, this matter was re-opened in order to determine whether any incident could be found which occurred within the statute of limitations. No such incident was discovered. This matter lacks prosecutive merit, as the investigation has not developed evidence regarding any federal offenses against the subjects in this matter which occurred within the statute of limitations. With regard to Commander Burge, and Detectives [redacted] and [redacted] the internal investigations "sustained" the allegations against all three relative to their use of torture to obtain a confession of one [redacted] was suspected at the time of having [redacted] After the internal

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<sup>1/</sup> That allegation involves the alleged use of [redacted]

b3 -2  
b6 -2  
b7C -2

[redacted] This matter reportedly occurred on [redacted]

investigation, Commander Burge, a 23 year veteran, was fired from his job, and Detectives [redacted] and [redacted] were suspended from the police force for fifteen months, and were demoted to the rank of police patrolman. As there is no evidence of federal criminal civil rights violations having been committed by these officers within the statute of limitations, this matter should be closed.

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44A-CG-7823482

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FBI - CHICAGO	
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- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

6/21/93

[redacted] Assistant United States Attorney  
(AUSA), UNITED STATES ATTORNEY'S OFFICE (USAO), Northern District of Illinois, advised that in February, 1991, USAO declined prosecution in the [redacted] civil rights case because the alleged violation occurred outside the five (5) year Statute of Limitations. The case was re-opened by the Department of Justice (DOJ) in April, 1991. In May, 1993, the DOJ closed the case. AUSA [redacted] advised that since it was the DOJ who re-opened the case, it is not necessary to obtain a prosecutive opinion from his office. AUSA [redacted] further advised that he will forward a Memorandum of Understanding from his supervisor, regarding this matter.

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6/18/93  
302  
DECL.

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Investigation on 6/18/93 at Chicago, Illinois File # 44A-CG-78234by SA [redacted] dlf Date dictated 6/18/93b6 -1  
b7C -1

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19-cv-4048(FBI)-833

## Memorandum



To

SAC, CHICAGO (44A-CG-78234) (SQ. 12)

From : SAC, SPRINGFIELD (44A-CG-78234) (RUC)

Subject : Commander JOHN BURGE,  
CHICAGO, ILLINOIS POLICE DEPARTMENT;  
[redacted] VICTIM RUC File Destruction Program

CR

OO: CG

b6 -2  
b7C -2

Enclosed are is 1 items:  
These items are forwarded your office since:

- All logical investigation completed in this Division
- You were OO at the time our case was RUC'd.

Enclosures are described as follows:

One (1) IA exhibit containing an original document.

44A-CG-78234-

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SEARCHED	INDEXED
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FBI - CHICAGO	

Enc.

NOTE: DO NOT BLOCK STAMP ORIGINAL ENCLOSURES.

19-cv-4048(FBI)-835

- 1 -

## FEDERAL BUREAU OF INVESTIGATION

Date of transcription

6/28/93

Assistant United States Attorney (AUSA) [redacted]  
UNITED STATES ATTORNEY'S OFFICE (USAO), Northern District of Illinois, provided a copy of an USAO Memorandum dated June 22, 1993, which states that since it was the Department of Justice who re-opened and closed the JON BURGE Civil Rights case on May 18, 1993. His office will also consider the case closed.

b6 -3  
b7C -3

A copy of instant memorandum is attached and made a part hereto.

5/18/93

USAO

DECCRATION

DOJ  
ST. of LIMS.

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Investigation on 6/25/93 at Chicago, Illinois File # 44A-CG-78234-83by SA [redacted] Date dictated 6/28/93 b6 -1  
b7C -1

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19-cv-4048(FBI)-836

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# Memorandum



Subject	Date
Jon Burge USAO No. 91,11734	June 22, 1993
To	From
[redacted] S/A Federal Bureau of Investigation	[redacted] Assistant U.S. Attorney

b6 -1,-3  
b7C -1,-3

As you know, the Civil Rights Division of the United States Department of Justice opened an investigation into allegations of police brutality by former Chicago Police Commander Jon Burge and certain detectives under his command. On May 18, 1993, the Civil Rights Division declined this matter. See attached Notice to Close File No. 144-23-2321. Since the Civil Rights Division has declined this matter, it is now closed.