

FEDERAL BUREAU OF INVESTIGATION
FOI/PA
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FOI/PA# 1417740-0

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U.S. Department of Justice

United States Attorney
Northern District of Illinois

Dirksen Federal Building
219 South Dearborn Street, Room 1500
Chicago, Illinois 60604

October 15, 1990

[redacted]
Federal Bureau of Investigation
U. S. Department of Justice
219 South Dearborn Street
Chicago, IL 60604

Dear [redacted]

As we discussed, enclosed please find a civil rights allegation brought to our attention by the Task Force to Confront Police Violence. As you can see, this allegation requires very prompt attention due to statute of limitations problems.

COMMANDER JOHN BURGE,
CHICAGO, ILLINOIS POLICE
DEPARTMENT, CHICAGO,
ILLINOIS, [redacted] VICTIM;

b6 -1,-2
b7C -1,-2

CIVIL RIGHTS;
OO:CG

10/18/90 [redacted]
CUSA [redacted]
statute of limitation starts
the day of incident. [redacted]
10/18/90

By:

Assistant United States Attorney
219 S. Dearborn Street
15th Floor
Chicago, Illinois 60604
(312) 886-7651

b6 -3
b7C -3

Very truly yours,

FRED FOREMAN
United States Attorney

[redacted]
Contact FBI if you have a problem. What is the statute of limitations? If anything, submit FD-302 immediately, advise me of results of your investigation prior to commencing investigation.

OJA
Oct 18/90
DMC

won't be in
office until 10/26

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

44A-CG-78234-1

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 16 1990	
FBI - CHICAGO	

JA [redacted]

10:30 A/m
Called

[REDACTED]
Public Defenders Office
10/23/90 left message.

RTH
10/23/90

b6 -6
b7C -6

(Title) _____

(File No.) _____

Item	Date Filed	To be returned	Disposition
		Yes No	
1	3/91		
2	10/91	✓	
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3	3/92		
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12	"		
13	"	" "	
14	"		

Report of Proceedings
Copy of Return of Service
Subpoena
Original note re interview of [redacted]

b6 - 5
b7C - 5

ORG interview notes

b6 - 4
b7C - 4

Return of service subpoena
ORG interview notes

"

"

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Letter to superintendant
ORG interview notes

"

"

Return of sum of Grand Jury subpoena

44A-C6-78234-1A

SEARCHED	INDEXED
SERIALIZED	FILED
MAR 15 1991	
FBI - NEW YORK	

19-CV-4048(FBI)-3

*FBI - CHICAGO
SPURRILLS*

1 STATE OF ILLINOIS)
2 COUNTY OF COOK) ss.

3 IN THE CIRCUIT COURT OF COOK COUNTY
4 COUNTY DEPARTMENT-CRIMINAL DIVISION

5 THE PEOPLE OF THE)
6 STATE OF ILLINOIS)
7 V) No. 85 C 13285
SHADEED MUMIN)

REPORT OF PROCEEDINGS had in the above entitled
cause, before the Honorable JOHN J. MANNION, Judge of
said court, on the 13th day of May, A.D., 1987.

APPEARANCES:

HON. RICHARD M. DALEY,
State's Attorney of Cook County, by
MR. JAMES REILLY and
MR. THOMAS FINN,
Assistant State's Attorneys,
appeared for The People;

MR. DENNIS DOHERTY,
appeared for The Defendant.

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	DX	CX	RDX	RCX
John Burge	4	13		
John Paladino	27	29		
Shadeed Mumin	44	67	95	

FILED

OCT 5 1983

MORGAN M. FINLEY
CLERK OF THE CIRCUIT COURT
CRIMINAL DIVISION

*Russell Koslak
Bigs are ready*

*70-78
49-63. 1*

1 allegations against Lieutenant Burge from Area 2,
2 that Lieutenant Burge had no contact with the defendant
3 when the statement was actually signed, elicited by
4 Detective Paladino and the State's Attorney, and at
5 the conclusion of all of the testimony we would
6 ask the Court to deny the motion.

7 THE COURT: Okay. Call your first witness.

8 MR. REILLY: We call Commander Burge.

9 J O H N B U R G E,

10 called as a witness on behalf of The People of the
11 State of Illinois, having been first duly sworn, was
12 examined and testified as follows:

13 DIRECT EXAMINATION

14 By Mr. Reilly:

15 Q Will you state your name and spell your
16 last name for the benefit of the court reporter please?

17 A John Burge, B-u-r-g-e.

18 Q You are a Chicago Police Officer?

19 A Yes, I am.

20 Q What is your current rank, sir?

21 A Commander.

22 Q And where are you assigned?

23 A The bomb and arson unit of the Chicago
24 Police Department Detective Division.

1 Q How long have you been a Chicago Police
2 Officer?

3 A Eighteen years.

4 Q Directing your attention to October of
5 1985, where were you assigned at that time, sir?

6 A I was the commanding officer of the Area 2
7 Violent Crimes Unit.

8 Q I want to direct your attention specifically.
9 to the afternoon and evening hours of October 30th,
10 1985. What shift were you working on that date?

11 A I was working afternoons, from four p.m. to
12 twelve midnight.

13 Q You were the commanding officer on duty at
14 that time at Area 2 Violent Crimes, is that correct?

15 A Yes, sir.

16 Q Specifically sometime during the evening
17 of October 30th, 1985, at around ten p.m., did
18 you receive a prisoner named Shadeed Mumin?

19 A Yes, sir.

20 Q And where was that prisoner transported
21 from, sir?

22 A He was brought to Area 2 from the 7th Police
23 District.

24 Q He had been placed under arrest for another

unrelated charge in the 7th District?

A Correct.

Q And approximately what time of the evening, if you recall, did he arrive at Area 2?

A Around ten p.m.

Q And when he arrived at Area 2 what was done physically with Mr. Mumin?

A I was told by the detective who transported him that he was in the facility. I then told the detective to bring him into my office. I wanted to talk to him.

Q And I ask you to look around the courtroom at this time, sir. Do you see Mr. Mumin in court today?

A Yes.

Q Please point him out and describe what he is wearing today in the courtroom.

A Seated at the defense bench wearing eyeglasses.

MR. DOHERTY: We stipulate he's identified the Defendant, Your Honor.

THE COURT: The record may so reflect.

MR. REILLY: I'll accept that stipulation.

When he was brought into your office, sir,

1 was there anybody else in the office with you?

2 A No, just Mr. Mumin and myself.

3 Q Was Mr. Mumin handcuffed at that time?

4 A He was when he first arrived there, sir,
5 however, I told the detective to remove the cuffs.

6 Q And were they removed?

7 A Yes, they were.

8 Q Where is your office located in relation to
9 the area there?

10 A Immediately adjacent to our squad room and
11 the administrative offices, and the desk there is
12 utilized by the watch commanders.

13 Q And when he was brought into your office was
14 the door left open or closed?

15 A It was open.

16 Q Did you proceed to speak to Mr. Mumin?

17 A Yes, I did.

18 Q What did you tell him at that time of the
19 evening?

20 A I had a conversation of maybe five minutes
21 duration at the outside. I told him the reason why
22 he was there, told him the evidence that we had
23 against him, told him that certain statements had
24 been made by co-defendant in the case implicating he

1 was one of the offenders. Various idle chatter.

2 Nothing to the point. No questions relative to the
3 case.

4 Q And you, in fact, were not the investigating
5 detective on the case?

6 A No, I was not.

7 Q Did you attempt to contact the officers or
8 detectives who were assigned to this investigation?

9 A Yes, I did.

10 Q And after your five minute conversation,
11 or in the-- The conversation in your office there,
12 what was done with the Defendant, Mr. Mumin?

13 A He was taken to one of the interview rooms
14 in Area 2.

15 Q He was placed in an interview room?

16 A To the best of my knowledge. I didn't
17 physically see it, though.

18 Q Now, you indicated that your shift was
19 approximately four p.m. to midnight. Did you go
20 home at approximately midnight that night?

21 A Yes, sir.

22 Q Did you have any further contact with
23 Mr. Mumin that evening?

24 A No, sir.

Q The statement Mr. Mumin provided to Detective Paladino and State's Attorney Crooks the following morning and early afternoon at twelve fifty p.m., were you even at Area 2 at that time, sir?

A No, sir, I was not.

Q Were you even in the building at that time?

A No.

Q You left at approximately midnight of October 30th, 1985, and when did you next return to Area 2?

A Approximately four o'clock in the afternoon on the 31st of October.

Q During the course of your five minutes of contact with Mr. Mumin on the 30th of October, 1985, did he, at any time, indicate to you that he wanted to talk to a lawyer?

A No, sir, he didn't.

Q Was he handcuffed very tightly by you or anyone in your presence?

A He was not handcuffed at any time he was in my presence.

Q Did you ever push him up against a wall?

A No, sir.

1 Q Did you ever make any racial comments or
2 threaten to kill him at any time, sir?

3 A No, sir.

4 Q While in your office at any point in time
5 was he handcuffed?

6 A No, sir.

7 Q Did you, at any time, have any contact
8 with the defendant where you produced a .44 Magnum
9 and told him you were going to play Russian Roulette?

10 A No, sir.

11 Q Did you, at any time, threaten the defendant
12 with a gun or ever put a gun to his head and pull
13 the trigger three times and tell him he was a lucky
14 nigger?

15 A No, sir.

16 Q You testified in your testimony today you
17 didn't even question him about the crime itself,
18 is that correct?

19 A That's correct.

20 Q Did you, at any time during your contact
21 with Mr. Mumin, place a typewriter cover over his
22 head until his air supply was cut off?

23 A No, sir.

24 Q Did you, at any time, place a typewriter

1 cover over his head to the point where he passed
2 out in your presence?

3 A No, sir.

4 Q Did you, at any time, threaten to put a
5 typewriter cover over his head?

6 A No, sir.

7 Q Did you ever threaten him at any point in
8 time?

9 A No, sir.

10 Q At any point in time during this evening
11 did anyone else in your presence commit any of the
12 following-- Or of the above described instances?

13 A No, sir, not in my presence.

14 Q You had an opportunity to review the arrest
15 report of Mr. Shadeed Mumin, also known as George
16 Ramsey, from the 7th District, is that correct,
17 sir?

18 A Yes, sir.

19 Q And you learned that at eight thirty p.m.
20 at the 7th District he was allowed to make a phone
21 call, is that correct?

22 A Yes, sir.

23 Q And he arrived at your station some time in the
24 area of ten p.m. or after, is that correct?

1 A That's correct.

2 Q Did he ever request to make another phone
3 call?

4 A Not to me, no, sir.

5 Q After you advised him of what he was being
6 held for at Area 2 did he indicate to you as to
7 whether or not he wanted to cooperate with the police?

8 A He indicated that he did want to cooperate
9 and I told him that I was attempting to contact the
10 detectives who were handling the investigation.

11 MR. REILLY: Okay. If I may have a moment?

12 Nothing further, Judge.

13 THE COURT: All right. Before you start your
14 cross examination, Mr. Doherty, upon perusal of the
15 file I noticed some returned subpoenaed material
16 which you caused to issue, and I will tender that
17 to you.

18 MR. DOHERTY: Oh, thank you.

19 THE COURT: I believe it's police reports.

20 MR. DOHERTY: Thank you very much.

21 THE COURT: You're welcome. Okay. You may
22 cross.

23 MR. DOHERTY: Thank you.

1
2 CROSS EXAMINATION
3

4 By Mr. Doherty:

5 Q Commander, did you find out Mr. Mumin,
6 the Defendant here, was in the 7th District?

7 A Yes, sir.

8 Q Did you request that he be brought to you?

9 A I told the detective to go to the 7th
10 District and sign him out after he had been processed
11 there and bring him to the area.

12 Q So you personally requested that the
13 Defendant be brought from one police station to the
14 police station that you were at?

15 A Correct.

16 Q And the purpose of you requesting that he
17 be brought to you was so you could question him about
18 the evidence you had against him in this armed robbery,
19 correct?

20 A No, sir.

21 Q Well, what was the reason you wanted him
22 brought to you?

23 A The facilities of the 7th District police
24 station are quite lacking. We have a very good
25 facility at Area 2, including one-way mirrors for
26 the purpose of viewing lineups. I was personally familiar

1 with the investigation being conducted that
2 Mr. Mumin was involved in and that's the reason
3 I had him transported to us at Area 2.

4 Q Well, was Mr. Shadeed Mumin, the Defendant
5 here, ever placed in a lineup at the police station
6 you were at?

7 MR. REILLY: Objection. Relevance.

8 THE COURT: Overruled. He may answer.

9 THE WITNESS: I don't know if he was or not.

10 MR. DOHERTY: Well, would anything refresh
11 your recollection?

12 MR. REILLY: Objection.

13 THE COURT: Sustained.

14 MR. DOHERTY: All right.

15 THE COURT: He might not have been there,
16 counsel.

17 MR. DOHERTY: But when he did arrive, Mr. Mumin
18 was brought to you by the detective?

19 A That's correct.

20 Q And those were the instructions that you
21 gave to the detective, to bring him to where you
22 were in the police station?

23 A I sent that detective over to get him,
24 correct.

1 Q And where is it you first saw Mr. Mumin
2 in your personal office, commander?

3 A Standing outside the door of the
4 administrative offices.

5 Q Is this where you had your initial conversation
6 with him?

7 A No, I did not.

8 Q Where did the initial conversation with
9 the defendant take place, commander?

10 A In my office.

11 Q And was it just you and he, the defendant,
12 present?

13 A Yes, sir.

14 Q And the purpose of that conversation, though,
15 was to question him about the evidence you had against
16 him in the armed robbery, isn't that correct?

17 A No, that is not correct. I wanted to give
18 him a little food for thought.

19 Q Well, what do you mean more specifically when
20 you say "food for thought," commander?

21 A I wanted to let him know how he was implicated
22 in this offense and by whom, and knowing that he was,
23 in fact, an ex-convict, seek his cooperation in the
24 investigation.

1 Q All right. And by seeking his cooperation,
2 were you attempting to get him to give you statements
3 concerning his participation?

4 A That was not my intent at all. That's the
5 reason I never admonished him prior to talking to
6 him.

7 Q Do you know if anyone ever admonished him?

8 MR. REILLY: Objection to the form of the
9 question.

10 THE COURT: Overruled. He may answer.

11 THE WITNESS: Nobody did in my presence. However,
12 I have read the statement that was given to the
13 State's Attorney and the detective the next day and
14 I believe he also executed a rights waiver prior to
15 giving that statement.

16 MR. DOHERTY: So how long was the conversation
17 you had with Mr. Mumina? Just five minutes in length?

18 A Less than five minutes.

19 Q And you had no other conversation with
20 Mr. Mumina?

21 A Not at that time, no.

22 Q Any other time?

23 A Yes.

24 Q What day?

1 A I don't recall the exact dates. He called
2 me on the telephone several times after he was out on
3 bond.

4 Q But that doesn't involve the statements here?

5 A No, it does not.

6 Q All right. Did you release the handcuffs
7 off of him to bring him into this office?

8 A I didn't.

9 Q But the other detective did?

10 A Yes, sir.

11 Q Did this detective wait outside the office?

12 A He might possibly have. The door was open.
13 I don't remember anybody out there, but there's
14 normally two or three people in the outer office.

15 Q What time-- Do you recall about what time,
16 on October 30th, it was that Mr. Mumin was brought to
17 the station you were at?

18 A To the best of my recollection it would have
19 been approximately ten p.m.

20 Q You said he was allowed to make a phone
21 call at eight thirty p.m.? Was that your testimony?

22 A That's what the arrest report indicates, that
23 he was allowed to make a phone call at eight thirty
24 p.m.

1 Q Well, was that in your presence or someone
2 else's presence?

3 A It was not in my presence.

4 Q Do you know-- But the phone call was made
5 from the first police station he was at, correct?

6 A To the best of my knowledge.

7 Q Do you know if he called a lawyer at the
8 first police station?

9 A I don't know who he called.

10 MR. REILLY: Objection.

11 THE COURT: Overruled.

12 MR. DOHERTY: But he didn't ask to make any phone
13 call from the second police station he was brought to?

14 A Not to me, counselor.

15 Q Now, you say you did not question Mr. Shafeed
16 Mumin about the crime?

17 A That's correct.

18 Q But you did tell him that a co-defendant
19 had made statements implicating him in the robbery?

20 A That's correct.

21 Q And you asked him to cooperate with you,
22 something to that effect? Or you were urging his
23 cooperation?

24 A As I said before, I was giving him food for

1 thought seeking his cooperation. I didn't say, "I would
2 like you to cooperate."

3 Q Do you recall what words you used, commander?

4 A I don't recall exactly, no, sir.

5 Q Now, in your office were the two of you were,
6 there is a typewriter in your office, correct?

7 A There may or may not have been. I did not
8 have a typewriter of my own at that time.

9 Q You were the commanding officer in the
10 area?

11 A That's correct.

12 Q And in your office you say there was no
13 typewriter?

14 A I didn't do my own typing, counselor. I
15 had no need for one.

16 Q Who did your typing?

17 A One of the secretaries.

18 Q What is his or her name?

19 MR. REILLY: Objection.

20 THE COURT: Overruled.

21 THE WITNESS: Barbara Brown, Edith Hunt.

22 MR. DOHERTY: What shift were you working again,
23 commander?

24 A Working afternoons.

1 Q And what-- Where was the typewriter that
2 Miss Brown or Miss Hunt used to do your typing?

3 A Mrs. Brown's typewriter was located in
4 the commander's office, which was closed and locked.
5 And Miss Hunt's typewriter is normally locked in her
6 desk.

7 Q Are those the-- Oh, so Brown's typewriter
8 was inaccessible because it was locked up in the
9 office?

10 A Correct.

11 Q And you, as the commander, did you have a
12 key to that locked office?

13 A No, that was not my office. That was the
14 commander of the area's office and I did not have a
15 key for it.

16 Q And the other typewriter was locked by
17 Miss Hunt, but it was in plain view?

18 A I don't know if it was in her desk or in
19 plain view.

20 Q Do either of those typewriters-- Excuse me.
21 Strike that.

22 The one that was on her desk, does she
23 put a cover on it when she is through using it?

24 A I never seen a cover on it, no.

1 Q All right. Have you ever seen any typewriter
2 cover at all in the police station in which you are
3 at?

4 A I'm sure I have at one time or another,
5 yes.

6 Q Do you know if there is a typewriter cover
7 in the police station anywhere, the police station
8 you were at, on October 30th, where Mr. Mumin was
9 brought in?

10 A I feel quite certain there was probably
11 one somewhere in the building, but I was not directing
12 my attention to it to say yes or no there was one
13 present.

14 Q And when Mr. Mumin-- But Mr. Mumin made it
15 clear to you, commander, that he didn't want to
16 cooperate with you in this food for thought discussion
17 you were having with him, is that correct?

18 A No, that is not correct.

19 Q Well, did you indicate he did want to
20 cooperate with you or he didn't want to cooperate
21 with you?

22 A He indicated that he wanted to cooperate.

23 Q Did you testify on direct examination that
24 Mr. Mumin said he didn't want to cooperate with you?

1 A No, I did not.

2 Q Did you say he did?

3 A Yes.

4 Q And your conversation with him was for
5 five minutes long?

6 A Less than five minutes, yes.

7 Q Did you take a statement from him at this
8 moment when he agreed to cooperate?

9 A No, I did not.

10 Q Did you have an oral statement?

11 A I was not trying to elicit a statement from
12 him, counselor.

13 Q So after he said-- Strike that.

14 The robbery was in July of 1985, correct?

15 A That's correct.

16 Q And this is five months later, October 30th,
17 1985?

18 A Approximately.

19 Q You didn't have a warrant for his arrest,
20 did you? Meaning the defendant.

21 A I don't recall if there was a warrant in
22 existence or not, counselor.

23 Q But you didn't arrest Mr. Mumin at the time
24 he was brought to your office for this armed robbery,

1 did you?

2 A I didn't arrest him. He was already under
3 arrest.

4 Q Not for this armed robbery, though, commander,
5 was he?

6 A No.

7 Q Did you arrest him for this particular armed
8 robbery at the time he was brought to your office?

9 A I did not arrest him, counselor.

10 Q Now, when he said he wanted to cooperate
11 with you, what did he say?

12 A Just about those exact words, and I told
13 him that I was not that completely knowledgeable
14 regarding the investigation and I would attempt
15 to get hold of the detectives that handled it
16 and have them come in and speak to him.

17 Q Well, did you know what the allegations
18 were? That that armed robbery had occurred at a
19 fast food restaurant?

20 A Yes, I did.

21 Q And you knew someone was shot?

22 A Yes, I did.

23 Q And you knew a co-defendant had been arrested?

24 A That's correct.

1 Q And you knew the co-defendant had said
2 that the defendant here was present, correct?

3 A That's correct.

4 Q He was the driver, he told you, is that
5 right?

6 A He didn't tell me anything about his
7 participation of the crime.

8 Q What is the co-defendant's name?

9 A I don't recall, counselor. A female
10 juvenile.

11 Q And Mr. Mumin told you that-- The defendant,
12 that he wanted to cooperate with you?

13 A That's correct.

14 Q But you didn't question him any further
15 about the robbery in July?

16 MR. REILLY: Objection. Asked and answered.

17 THE COURT: Sustained.

18 MR. DOHERTY: After--

19 THE COURT: He said that a number of times.

20 MR. DOHERTY: After he said he wanted to
21 cooperate with you, what did you do with Mr. Mumin?

22 A I yelled out to McDermitt to come into
23 the office. He came in shortly thereafter and I told
24 him to put Mumin in an interview room in Area 2.

1 Q Did you assign anyone to question Mr. Mumin
2 in the interview room?

3 A Not at that time, no.

4 Q Do you know who next had contact with Mr.
5 Mumin in the interview room?

6 A To the best of my knowledge, Detective
7 Paladino.

8 Q Do you know when that was?

9 A I'm assuming the next morning. I wasn't
10 physically present.

11 Q So when you say-- Let's get back to-- You
12 didn't admonish him. That means you didn't give
13 him any Miranda Warnings, did you?

14 A That's correct.

15 Q And you know what the Miranda Warnings are?

16 A I certainly do, counselor.

17 Q So you had Mr. Mumin brought to you in the
18 police station and you told him that a co-defendant
19 had implicated him in this robbery, correct?

20 A That's correct.

21 Q And he told you he would be willing to
22 cooperate with you at your request? You requested
23 he cooperate, didn't you?

24 A There were some other conversations, but that's

1 basically what occurred, yes.

2 Q And he agreed to cooperate with you?

3 A Yes.

4 Q And then you put him in a little room for
5 the purpose of having another police officer take
6 a statement from him?

7 A That's correct.

8 Q That was after he had stated he would
9 agree to cooperate with you?

10 A That's correct.

11 Q Before you placed him in the room, the
12 interview room at Area 2, did he admit to you that
13 he was present at the chicken armed robbery in
14 July?

15 A Number one, I did not place him in the
16 interview room. I already testified to that. Number
17 two, I did not attempt to elicit any statement from
18 him and he made no statement to me regarding his
19 involvement in the crime.

20 Q Did you ask him, after he said he would
21 cooperate with you, did you ask him, when you were
22 talking to him, if he had participated in the crime
23 or not?

24 MR. REILLY: Objection.

1 THE COURT: Sustained. He already said he
2 didn't.

3 MR. DOHERTY: All right. Nothing further.

4 THE COURT: Redirect?

5 MR. REILLY: No.

6 THE COURT: You're excused, lieutenant.

7 THE WITNESS: Thank you, Your Honor.

8 THE COURT: Let's take five minutes.

9 (Whereupon a recess was taken in the
10 above entitled cause, after which the
11 following proceedings were had:)

12 THE COURT: Okay. Any further witnesses?

13 MR. REILLY: Detective John Paladino.

14 JOHN PALADINO.

15 called as a witness on behalf of The People of the
16 State of Illinois, having been first duly sworn, was
17 examined and testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Reilly:

20 Q Will you state your name and spell your last
21 name for the benefit of the court reporter please?

22 A John Paladino, P-a-l-a-d-i-n-o.

23 Q And you are a Chicago Police Officer assigned
24 to Area 2 Violent Crimes?

1 MR. REILLY: No, we have a couple of conferences.

2 THE COURT: All right. We can do that. All
3 right. We'll take a brief recess and conference
4 whatever cases we have.

5 (Whereupon a recess was taken in the
6 above entitled cause, after which the
7 following proceedings were had:)

8 THE CLERK: People versus Shadeed Mumin.

9 THE COURT: Okay. Mr. Doherty, call your
10 first witness.

11 MR. DOHERTY: Thank you, Judge. The defense
12 asks leave of court to call the Defendant, Mr. Shadeed
13 Mumin. Could you please walk up to the witness stand
14 and be sworn?

15 S H A D E E D M U M I N,
16 called as a witness in his own behalf, having been
17 first duly sworn, was examined and testified as
18 follows:

19 DIRECT EXAMINATION

20 By Mr. Doherty:

21 THE COURT: Okay. Proceed, Mr. Doherty.

22 MR. DOHERTY: Thank you, Judge.

23 Would you state your present name please?

24 A My name is Shadeed Mumin.

1 Q Spell that please.

2 A S-h-a-d-e-e-d, M-u apostrophe m-i-n.

3 Q And how old are you, Mr. Mumint?

4 A Forty-three.

5 Q Were you arrested on October 30th, 1935?

6 A Yes, sir.

7 Q About what time, if you know, were you arrested
8 on October 30th, 1935?

9 A I think probably around seven o'clock p.m.

10 Q Was that by unmarked or marked police officers?

11 A Unmarked.

12 Q Unmarked police officers pulled you over?

13 A Yes, sir.

14 Q Where at?

15 A At 71st and Green, off Halsted.

16 Q And did they search your car?

17 A When I first was pulled over by them they
18 asked me-- When I got out of my car they asked me where
19 was the shotgun and some pistols I was supposed to have
20 had in the car.

21 Q These are the unmarked--

22 A Unmarked police officers, yes.

23 Q Did they take you anywhere?

24 A No, sir, they was talking to me, one of them was,

1 while the other one was looking in the car.

2 Q All right. And after they looked in the
3 car did they take you anywhere?

4 A In the course of looking in the car, behind
5 my back seat I had a sachet case with my leather
6 tools in it because I just had came from the leather
7 shop, and in that leather case I had a pistol sticking
8 down there and the detective in the car there found
9 that, and at that time then they called the paddy
10 wagon and took me to 61st Street.

11 Q Do you know what time you got to 61st and
12 Racine?

13 A No, sir, not right offhand.

14 Q That's the police station there, right?

15 A Yes, sir.

16 Q You got there about how many minutes after
17 the detectives encountered you?

18 A May have been around seven thirty, I believe.

19 Q So about a half hour later you were in the
20 police station?

21 A Yes, sir.

22 Q What happened initially at the police station
23 at 61st and Racine?

24 A At the police station, when I arrived there, I

1 asked the detectives there what was I being charged
2 with. They told me for having a concealed weapon.

3 Q What happened after that?

4 A I sat there for a while and then they told
5 me to get my stuff. That I was going to 111th.

6 Q All right. Who told you that? Detectives or
7 the police officers?

8 A The detective did, sir.

9 Q All right. And how were you taken to 111th
10 Street?

11 A Taken to 111th Street in a paddy wagon.

12 Q And about what time did you get to 111th
13 street? Do you know, Mr. Mumlin?

14 A No, sir, may have been around eight o'clock.
15 I'm not certain.

16 Q Did anyone tell you, sir, what you were
17 being taken to the 111th Street police station for?

18 A No, sir, they just said they wanted to
19 talk to me.

20 Q And when you got to the 111th Street police
21 station at about eight o'clock p.m. on October 30th,
22 1935, what happened when you got there?

23 A I was taken out of the paddy wagon, taken
24 upstairs to the detective's department up there.

1 Q All right. Who took you out of the paddy
2 wagon?

3 A Two uniformed police officers.

4 Q They took you to the upstairs area of that
5 police station?

6 A Yes, they did.

7 Q To your knowledge-- Well, strike that.

8 You were taken to where in the upstairs
9 of the police station exactly?

10 A To the detective area, to a holding room
11 where they had a little bench.

12 Q You were taken into a little room?

13 A Yes, sir.

14 C Upstairs?

15 A Yes, sir.

16 Q About how big was the room?

17 A Four by eight, eight by four, something in
18 that nature.

19 Q Well, was it a small type room?

20 A Small type room, yes, sir.

21 Q About the size of the lockup back here?

22 A Yes, sir, about that size. Yes, sir.

23 Q And were you handcuffed at the time you were
24 placed in the room?

1 A At the time I was put in the room I was
2 handcuffed but the uniformed officers took their
3 cuffs off and went out, closed the door, and a few
4 minutes after that in came one Lieutenant Burge
5 and put the cuffs on me, his cuffs.

6 Q Mr. Mumin, after the uniformed officers
7 left the room you say Lieutenant Burge entered the
8 room?

9 A Yes.

10 Q Is that the same lieutenant that first
11 testified here?

12 A It is.

13 Q In your hearing?

14 A It is.

15 Q All right. When you first saw Lieutenant
16 Burge-- Had you ever seen him before? Do you know?

17 A No, sir, I hadn't.

18 Q What did he first speak to you? What
19 happened when he first came into that room?

20 A He told me to get up and turn around to the
21 wall and I was handcuffed immediately to a wall where
22 I couldn't sit down, with my hands behind me in this
23 direction.

24 Q Were you standing or seated?

1 A Standing. I couldn't sit.

2 Q And when you were handcuffed to the wall
3 was there any fixture on the wall?

4 A There was a fixture where they had the
5 cuffs holding onto the wall there.

6 Q Describe the wall area that you say you
7 were handcuffed to.

8 A There was like a screw or something that
9 had been put into the wall and the handcuff was in
10 there. Like a hanger.

11 Q For the record the defendant has indicated
12 an appendage coming out of the wall similar to a
13 ring or a--

14 A Yes.

15 Q Or a hook.

16 A Yes, sir.

17 Q Was one or two hands handcuffed at that time?

18 A Two handcuffed.

19 Q What happened then?

20 A I was asked to tell-- I was asked to tell
21 him about a robbery, and I informed him at that time
22 I had no knowledge of what he was speaking of.

23 Q Now, please recite to the best of your
24 ability or recall what Lieutenant Burge said to you.

1 A He said, "I want to know about the robbery."
2 I told him I had no knowledge of what he was talking
3 about.

4 Q What did he say then?

5 A He told me, "Oh, yes, you do." And I kind
6 of smirked and said, "Sir, I have no knowledge of
7 what you're talking about." He told me-- He said,
8 "You'll talk before you leave here." and he stepped
9 out for a few minutes and came back and at that time
10 the cuffs was put on even tighter, and he left the
11 room for approximately about a half hour, and during
12 the course of that time, by being handcuffed to the
13 wall, my wrists became very numb and I'll say about
14 around approximately a half hour he came back and
15 kind of loosened the cuffs and said, "Are you ready
16 to talk now?" And I said, "I have no knowledge of
17 what you're talking about."

18 Q Was it one or two hands cuffed?

19 A Both hands was handcuffed behind me to the
20 wall. I was like on my toes.

21 Q And what happened during that period of time
22 when you were handcuffed to the wall, as you say,
23 tight? Did you feel any pain?

24 A Around my wrist here the circulation was cut off.

1 Q Was it painful?

2 A Yes, it were.

3 Q What happened then?

4 A He came in after about a half hour and
5 took them off for a few minutes and asked me-- He
6 said, "Now are you ready to talk to me?" I said, "I
7 don't know what you're talking about. I have no
8 knowledge of what you're talking about." That's what
9 I informed him at that time.

10 Q What happened then?

11 A He became kind of angry and pushed me
12 into the wall.

13 Q And about how long, to your understanding
14 or thinking, had you been in the police station at
15 this period of time?

16 A About an hour or better.

17 Q After he pushed you, Lieutenant Burge,
18 what did he do?

19 A He let me stay handcuffed for a few
20 minutes and then he took them off and we went into
21 his office.

22 Q Where is that office located?

23 A Down around the hallway from the room where
24 he had me presently handcuffed.

1 Q Would you describe the--

2 A We came out the little room that I was
3 being detained in and went down a little hallway
4 like and into his office, like an office like one
5 of those over there.

6 Q About how many feet was the office, the
7 lieutenant's office, from the little room you had been
8 in?

9 A Approximately about ten, fifteen feet, I
10 think.

11 Q And who brought you to the office?

12 A Lieutenant Burge.

13 Q What happened in the office, Mr. Mumford?

14 A He told me-- He said, "You're not going to
15 talk, huh?" And I told him, "I don't know what you're
16 talking about, lieutenant." He told me at that
17 time, "Do you know that we can bury you in the
18 penitentiary?" I told him, "I still don't know
19 what you're talking about."

20 During the course of that time we sitting
21 there and he asked me about my son. Then he informed
22 me that, "We really don't want you. We want your
23 son. Where's your son. You're a damned fool, man,
24 for you not taking the blame for something you didn't

1 do." I told him, "I don't know what you're talking
2 about, lieutenant." So he became angry and he sat
3 down at the desk and I'm handcuffed to the chair
4 where I was sitting in, and he reached into the
5 drawer and got a .44 Magnum out, which it was fully
6 loaded, and he took all the bullets out except for
7 one and he spun it and placed it to my head as
8 I'm sitting in front of him and he snapped it three
9 times. He said, "you're damned lucky that I didn't
10 kill you." I just sat there and looked at him, and
11 he said, "I want to know about the fucking robbery."
12 and he got really belligerent with me and I told
13 him, "I don't know what you're talking about."

14 Q Mr. Mumin, in the office there were you
15 handcuffed?

16 A Yes.

17 Q And seated in a chair?

18 A Yes.

19 Q Was there a desk in there?

20 A It was a desk in front of him.

21 Q Were you behind the desk or in front of the
22 desk?

23 A In front of the desk.

24 Q And where was the lieutenant?

1 A He was over there sitting where you would be
2 if you were--

3 Q Where the person would sit behind the desk?

4 A Sitting at where you normally sit at the
5 desk. Where you would be seated behind the des .

6 Q And when he pulled the gun out, the .44
7 Magnum, as he emptied the chamber, was the chamber
8 directly at towards you or "away" from you?

9 A Directly towards me. It was pointed at
10 me. He had it up.

11 Q Are you talking about the barrel?

12 A Yes.

13 Q The barrel was pointed towards you?

14 A Right.

15 Q As he took the bullets out?

16 A Right.

17 Q Or some bullets out, and the chamber was
18 not facing you? Is that correct?

19 A No.

20 Q All right. Well, you really couldn't see-- Or
21 could you see the chamber itself from where the bullets
22 were removed or not?

23 A Well, it was a revolver. Like it was a
24 revolver, so--

1 Q Well, do you know of your own knowledge
2 whether or not there were any bullets in the gun
3 when he was pulling the trigger?

4 A One. He took them all out except one.

5 Q You believe there was one?

6 A I seen it with my own eyes.

7 Q And did he snap the trigger slowly or
8 quickly?

9 A Snapped it slowly. He pulled it up, put it
10 to my head and pulled it, snapped it and locked,
11 turned it again and pulled it, and the third time
12 he did it he took it away and said, "Oh, you're not
13 afraid, huh?" And I just looked at him.

14 Q Then what happened?

15 A He sat there and looked at me a while and
16 then he said, "You know you're telling a fucking
17 lie. You know where they're at." I said, "I have
18 no knowledge what you're talking about, lieutenant."
19 So he became angry and jumped up from the desk and
20 over in the corner there was a typewriter with a
21 brownish-like cover on it. He snatched that off
22 and returned over to me and said, "You'll fucking talk
23 or I'll kill you." And he placed the typewriter
24 cover over my head, and I was handcuffed to the chair

1 like this and he pushed me back and held the cover
2 on my head until I passed out, him and another
3 detective.

4 Q For the record he's described he's seated
5 like this, meaning he was seated in a chair with his
6 hands behind his back handcuffed. That's the
7 demonstration that he gave, for the record, Judge.

8 Now, would you describe the typewriter
9 cover?

10 A It was brownish, long.

11 Q Do you know what material it seemed to be
12 made of?

13 A Vinyl. Like a vinyl cover.

14 Q How is it that he placed this over your
15 head as you say?

16 A Like you drop it down over a typewriter. He
17 just put it down over there and held it over my face
18 until I passed out.

19 Q So the cover was placed over your head, is
20 that correct?

21 A Yes.

22 Q As it was placed over your head were you
23 able to see out of it?

24 A No.

1 Q Do you know where Lieutenant Burge's hands
2 were as he placed the typewriter cover over your
3 head?

4 A He had one holding the back of my head
5 and holding the cover around there and he had the other
6 one on my face like this, pushing it, pulling it
7 down on me.

8 Q And indicating for the record one hand was
9 at the rear of the head and the other hand was with
10 his palm to the front of the head of the witness.

11 Now, the hand that was to the front of
12 your head, as the cover was over your head, the
13 lieutenant's hand that is, what was that hand doing?

14 A Pushing it in my face. Pushing the cover
15 and smothering me so I couldn't breath out.

16 Q And as his hand pushed the cover on your
17 head what feeling did you get?

18 A I tried to move my head but I couldn't
19 move it. Every time I moved he would move and push
20 it, and finally I passed out.

21 Q Well, did it affect-- What affect did it
22 have on you when he put the cover over your face?

23 A Felt like I would die.

24 Q Were you able to breath?

1
2
3 A No.

4 Q And for how long was that cover over your
5 head?

6 A Approximately three seconds to a minute.
7 Didn't take that long.

8 Q Three seconds to a minute? I mean you're
9 not sure?

10 A I'm not sure.

11 Q All right.

12 MR. REILLY: Objection.

13 THE COURT: Try not to lead him. Sustained.

14 MR. DOHERTY: All right. And it was on your
15 head how many times?

16 A He pulled it three times, and the third time
17 I hollered. Then he took it off and laughed, him and
18 the other detective that was with him.

19 Q Do you know that detective's name, the other
20 one?

21 A No, I don't.

22 Q Did he do anything; that other detective?

23 A No, he just sat there during this time
24 when he first placed the cover over my head, and I
was struggling and trying to stand up with the chair
holding my arms, you know, in a position behind me because

1 I was handcuffed to the chair.

2 Q But it was Lieutenant Burge that was--

3 A He's the one that did all the work.

4 Q And how long were you in there with the
5 typewriter cover? How long did that entire event
6 take place? You said it was three times. How long
7 a period of time?

8 A About twenty minutes. Approximately a half
9 hour.

10 Q Twenty to thirty minutes you say?

11 A Yes, sir.

12 Q Then what happened, Mr. Mumin?

13 A The cover was taken off and he asked me
14 was I ready to sign a statement and I told him that
15 I'll do anything. Just let me go.

16 Q Then what did they tell you or what were you
17 told then?

18 A Lieutenant Burge informed me at that time,
19 he said, "If you tell somebody nobody will believe
20 you because there's no marks on you and you better
21 sign the fucking statement when this attorney gets
22 here tomorrow." And he said, "If you don't, you'll
23 get it even worse than what I did to you now."

24 Q About what time is it now when you agreed to

1 sign the statement? Do you know?

2 A It may have been after eleven o'clock.

3 Q Did you ever make any phone call from the
4 police station?

5 A No, sir, not from 111th.

6 Q Did you make a phone call from the first police
7 station?

8 A They let me call. I called a friend there to,
9 come pick up my car.

10 Q Well, was that so your car wouldn't--

11 A That was to inform someone to pick my car
12 up.

13 Q Where was your car?

14 A Left around 71st and Halsted near Green,
15 where they stopped me.

16 Q Did you request any other phone calls at any
17 time?

18 A No, sir, because at the time I arrived at
19 111th the lieutenant informed me then that I wasn't
20 getting no fucking phone call and not calling no
21 fucking lawyers because he knew the routine, so I
22 didn't even ask. I didn't even ask.

23 Q You didn't ask him to make any phone calls
24 at 111th?

1 A When he informed me of this I didn't ask.

2 Q Well, when he informed you of what?

3 A He told me I wasn't getting no fucking phone
4 call. He said you ain't calling no fucking lawyer and
5 we're hip to that kind of stuff. What's what he told
6 me. So I didn't even ask to make a phone call.

7 Q Now, at the time that you agreed-- Or did
8 you agree with Lieutenant Burge, did you agree to
9 sign the statement?

10 A After he tortured me and put me through this,
11 yes.

12 Q And that's in the evening?

13 A During the evening.

14 Q After he had done these acts?

15 A Yes.

16 Q Why did you agree with the lieutenant to
17 sign the statement?

18 A Because I feared for my life and he took
19 me through all this torture. I couldn't stand it no
20 more.

21 Q Do you recall the lieutenant stating any
22 racial slurs to you?

23 MR. REILLY: Objection.

24 THE WITNESS: Yep, he called me a bunch of niggers.

1 THE COURT: Overruled. Go ahead. The answer
2 will stand.

3 MR. DOWERTHY: When is the first time you were
4 brought before a judge?

5 A The 1st of November, to the best of my
6 knowledge.

7 Q Which was-- You were arrested on October 30th,
8 so that's two days after the day you were arrested.
9 correct?

10 A Yes, sir.

11 Q After the lieutenant-- Or after you agreed
12 to sign the statement the following day through
13 Lieutenant Burge, where were you placed in the
14 police station?

15 A I was placed back in the room that I was
16 first put in when I was brought to the station.

17 Q Were you handcuffed or not?

18 A No, I was not handcuffed at that time.

19 Q You were just seated in the room?

20 A Yes.

21 Q Is there any-- Was there any toilet facility
22 in there?

23 A No.

24 Q Did you receive any food at any time?

1 A No, sir.

2 Q Did you smoke cigarettes?

3 A No, sir.

4 Q You didn't smoke then?

5 A No, sir.

6 Q Was there any water in the room?

7 A No, sir.

8 Q Did any police officers or State's Attorneys at
9 any time feed you?

10 A No, sir.

11 Q Did anyone even inquire as-- Excuse me. Did
12 you see anyone-- Strike that.

13 Did you see anyone after you were placed in
14 the room?

15 A No, sir. I had to use the restroom and I
16 beat and beat on the door. Nobody ever answered the
17 door. I never seen anyone until the next morning.

18 Q About what time?

19 A About nine o'clock in the morning.

20 Q What happened at nine in the morning?

21 A The detective, I think his name is Paladino,
22 came in and I informed him that I had to use the rest-
23 room and he let me out and I went to the restroom.

24 Q That's the detective that was the second

1 witness here today?

2 A The second witness that testified here today.

3 Q When did you see the State's Attorney?

4 A Later on during the day, around eleven
5 thirty or something like that I think.

6 Q And how was it that you signed a statement?

7 A Must have been around twelve, something like
8 that.

9 Q Would you describe what occurred as you
10 signed the statement, what occurred prior--immediately
11 prior to that? Do you know? Just before you signed
12 it what happened?

13 A I was advised if I wanted to sign the statement.

14 Q Who asked you that?

15 A The State's Attorney, I think.

16 Q Where was he?

17 A He was in the little room where I was at.

18 Q You were not handcuffed?

19 A No, sir.

20 Q Is that the first time you had seen the
21 State's Attorney?

22 A Yes, sir.

23 Q Did-- Were you shown any statement?

24 A Not at the time I was asked. He went out and

1 came back and then the second officer that
2 testified came back with him, and that's when
3 it was presented to me.

4 Q All right. Is the statement any of your
5 handwriting?

6 A No, sir.

7 Q And after you signed the statement what
8 happened?

9 A They left. The State's Attorney and the
10 officer left the room. I was left in the room until
11 that night.

12 Q Why did you sign the statement, Mr. Mumin?

13 A I had to sign it. If I didn't, I would get
14 smothered out again or whatever, and I believe it,
15 so I went along with him.

16 Q Any oral statements that you made to the
17 police at any time in police custody, why did you make
18 those statements?

19 A I didn't make no oral statement to any of the
20 officers.

21 Q Did you ever see Lieutenant Burge after you
22 signed the statement?

23 A I seen him that night, or the next night, at
24 111th Street.

1 Q Were you kept in that room again?

2 A Kept in the room from the time I arrived
3 until that next night, on the 31st, until about
4 two in the morning, when I was taken back to 61st
5 Street.

6 Q And the next morning, or later that morning,
7 you were brought to court?

8 A Right.

9 Q When you saw Lieutenant Burge later on the
10 day of October 31st, where was that?

11 A He was in his office. He came and looked in
12 the little room and told me, "I see you signed." He
13 said, "Good boy." That's what he told me. He told
14 me to keep my mouth shut too about what happened to me.

15 Q Were you ever placed in a lineup?

16 A No, sir.

17 Q Have you ever been placed in a lineup?

18 A No, sir..

19 MR. DOHERTY: Nothing further.

20 THE COURT: Cross?

21 CROSS EXAMINATION

22 By Mr. Reilly:

23 Q Mr. Mumin, you were arrested at seven fifteen
24 in the evening at 70th and Halsted on October 30th, 1985,

1 is that correct?

2 A To the best of my knowledge, yes, sir.

3 Q Some tactical plain clothes officers arrested
4 you, right?

5 A Yes, sir.

6 Q You were in your car, a 1978 Buick?

7 A Yes, sir.

8 Q Okay. And they searched that car and recovered
9 a .357 revolver, right?

10 A Yes, sir.

11 Q Along with a variety of ammunition, right?

12 A I had no knowledge of ammunition, sir.

13 Q Okay. And after they stopped you on the
14 street and searched you, searched thecar, they took
15 you over to 61st and Racine, correct?

16 A Yes, sir.

17 Q They took your car there too, didn't they?"

18 A I found out afterwards they did.

19 Q Okay. And at 61st and Racine you were
20 processed there? When I say "processed," they got
21 some information from you as to where you live, what
22 your name is, right?

23 A Yes, sir.

24 Q They had you fingerprinted?

1 A No, sir.

2 Q Isn't it true you were fingerprinted at
3 eight fifteen that night at the station of 61st and
4 Racine?

5 A I don't recall, sir.

6 Q You might have been fingerprinted at eight
7 fifteen p.m., right?

8 A It's possible.

9 Q Okay. And you said they allowed you to make
10 a phone call at eight thirty p.m. You called a friend,
11 right?

12 A I called at 61st.

13 Q Right. About eight thirty p.m., right?

14 A I have no knowledge of the time, sir.

15 Q And you were charged with a felony that
16 night, correct; unlawful use of weapons?

17 A That's what I was told.

18 Q Eventually sometime that evening, right?

19 A Yes, sir.

20 Q You were told that?

21 A Yes, sir.

22 Q And after they were through processing you
23 and charging you there, you were taken over to 111th
24 street some time that night, right?

1 A Yes, sir.

2 Q You got over there and you told us on
3 direct examination it was about eight o'clock. It
4 was more like about ten o'clock when you got there,
5 wasn't it?

6 A I have no knowledge. I thought, to the best
7 of my knowledge, that--

8 Q Well, you don't know what time it was when
9 you got there then, do you? .

10 A Best of my knowledge you're correct.

11 Q The best of your knowledge what, sir?

12 A That is correct. I have no--

13 Q That you don't know what time it was?

14 A No, sir.

15 Q And when you got to 111th Street, you were put
16 in an interview room, and that's when you met Lieutenant
17 Burge, right?

18 A Yes, sir.

19 Q Okay. And he threw the handcuffs up on you?

20 A Yes, sir.

21 Q He handcuffed you behind your back and to the
22 wall, right?

23 A Yes, sir.

24 Q He put them on real tight?

1 A Yes, sir.

2 Q Okay. Real tight to the point where they were
3 hurting you?

4 A Yes, sir.

5 Q Which caused you to lose the feeling in your
6 hands?

7 A Yes, it did.

8 Q They were very numb?

9 A Yes, sir.

10 Q Did they dig into your skin?

11 A Yes, sir.

12 Q Hurt you a lot, right?

13 A Caused pain.

14 Q Okay. He did this more than once, right?

15 A That's right.

16 Q Both your hands?

17 A Both hands were handcuffed, sir.

18 Q He put those handcuffs as tight as he could on
19 your wrists, right?

20 A That's correct.

21 Q And you said he threatened you and asked you
22 about a robbery, right?

23 A That's correct.

24 Q You said you didn't know anything about a--

1 A I informed him I didn't have no knowledge
2 what he was talking about.

3 Q He said you-- You said he then took you into
4 his office, right?

5 A After a while.

6 Q And when he put you in the office you said
7 he handcuffed your hands to the back of the chair,
8 right?

9 A Yes, sir.

10 Q And he put the handcuffs on real tight, right?

11 A Yes, sir.

12 Q Caused you a lot of pain?

13 A They weren't on as tight as at first.

14 Q They had been on and off several times
15 up to that point in time, right?

16 A That's correct.

17 Q And that's when you say he pulled out the
18 .44 revolver, right?

19 A Yes, sir.

20 Q It was fully loaded?

21 A Yes, it were.

22 Q He took out all the bullets, right?

23 A All except one.

24 Q Well, he took them all out and put one back

1 in, right?

2 A No, sir, I didn't say that.

3 Q Well, didn't you tell us on direct that
4 he took them all out and put back one?

5 A I said he took them all out except one.

6 Q Okay. You could see there was one in there,
7 right?

8 A That's correct.

9 Q And you said he spun the chamber, right?

10 A That's correct.

11 Q He spun it real fast, right?

12 A He spun it.

13 Q It spun real fast, though, right?

14 A I have no knowledge how fast it spun, but--

15 Q Well, he spun it, right?

16 A Yes.

17 Q It revolved several times, right?

18 A I didn't say that.

19 Q He spun it, though?

20 A Yes, sir.

21 Q Then he put it to your head and pulled it
22 three times?

23 A Yes, sir.

24 Q Real slow like?

1 A Yes, sir.

2 Q The gun was in a firing position, right?

3 A It was. The barrel was to my forehead
4 up there.

5 Q He pulled the trigger and it clicked?

6 A Yes.

7 Q Right? But it never went off?

8 A No, sir.

9 Q And it was-- And you were handcuffed to the
10 chair, right?

11 A Yes, sir.

12 Q And you're in a police station, right?

13 A At 111th.

14 Q And there's other police officers out in the
15 area out in the main lobby there, isn't there?

16 A I have no knowledge who was out there. I didn't
17 see any.

18 Q You didn't see anybody else? You had your
19 glasses on that night, didn't you?

20 A Yes, sir.

21 Q You had your glasses with you?

22 A Yes, sir.

23 Q Now, after he put the gun down you said he
24 then jumped up and went over, got a typewriter cover, right?

1
2 A After he didn't get no results after
3 snapping the gun he said-- He then asked me to tell
4 him and I wouldn't tell him nothing. I had nothing to
5 tell him.

6 Q The question is, he went and got the typewriter
7 cover, right?

8 A He jumped up and grabbed the typewriter
9 cover.

10 Q So he went over and got the typewriter cover,
11 right?

12 A Yes, sir.

13 Q And it was a brown, vinyl typewriter cover?

14 A I didn't say brown, sir.

15 Q Well, okay. What color was it?

16 A I said it was gray.

17 Q Gray?

18 A Grayish.

19 Q Grayish?

20 A Yes, sir.

21 Q Was it vinyl or plastic? Did you say vinyl?

22 A Vinyl. I know leather, sir.

23 Q And he put it up over your face, right?

24 A He put it down on my head.

Q Over your head and shoved it in your face is

1 what you said, right?

2 A Yes, sir.

3 Q Pushing it hard up against your face, right?

4 A Yes, sir.

5 Q Never broke your glasses, though, did he?

6 A I didn't have my glasses on.

7 Q You took them off for that?

8 A I didn't have them on.

9 Q Sir--

10 A I had them off before then, sir.

11 Q You had them off? Well, you can't see without
12 your glasses, can you?

13 A Yes, sir.

14 Q Okay. The glasses were off now when that was
15 done?

16 A That's correct.

17 Q Okay. And you said after about three seconds
18 you passed out, is that right?

19 A Approximately that time I passed out.

20 Q And did you just slump over in the chair
21 there and go unconscious?

22 A That's right.

23 Q How long were you unconscious for?

24 A I have no knowledge of that.

1 Q You have no idea how long you were
2 unconscious?

3 MR. DOHERTY: Objection.

4 THE COURT: Overruled.

5 MR. REILLY: You're slumped over in the chair
6 in this lieutenant's office, right? Is that correct, sir?

7 A That's correct.

8 Q Did you fall out of the chair?

9 A No, sir.

10 Q But you did go unconscious?

11 A Yes, sir, I did.

12 Q And you don't know if it was an hour or five
13 minutes?

14 A It wasn't no hour.

15 Q Okay. Then he did it again, right?

16 A After I regained consciousness he did it again..

17 Q And you passed out again?

18 A Yes, sir.

19 Q Then he did it a third time?

20 A Yes, sir.

21 Q And you passed out again?

22 A I didn't quite pass out. I hollered and he
23 took it off.

24 Q Then you said, "I'll sign anything." right?

1 A That's what I said.

2 Q "I'll sign anything." Those were your exact
3 words? What were your exact words? Withdraw that.

4 What were your exact words?

5 A I don't recall.

6 Q But you told him you'd sign the statement?

7 A I said that's what I said.

8 Q Had he shown you a statement up to then?

9 A Nope.

10 Q Had he presented you with any type of piece
11 of paper to sign?

12 A No, sir.

13 Q After you said, "I'll sign anything." he took
14 you back in that interview room, right?

15 A Not right then.

16 Q Well, eventually he took you back in the
17 room, right?

18 A Yes, sir.

19 Q You were not handcuffed back in the interview
20 room, though, right?

21 A No, sir.

22 Q And he left you and you didn't see him
23 again after that, right?

24 A I didn't see him no more until the next
date, until the next night.

1 Q Okay. So you spent that night in the
2 interview room, right?

3 A From the time they brought me thers.

4 Q Okay. You slept on the bench there?

5 A I sat in the chair.

6 Q You sat in the chair there?

7 A Yes.

8 Q Until about nine o'clock in the morning
9 when Detective John Paladino came in and let you go
10 to the washroom, right?

11 A Yes, sir. I knocked on the door.

12 Q And he allowed you to go to the washroom
13 then?

14 A Yes, sir, he did.

15 Q Then he came back and you had a conversation
16 with him, right?

17 A I had no conversation with him.

18 Q Okay. Well, he advised you of your Miranda
19 Warnings, didn't he?

20 A No, he didn't.

21 Q Do you know what your Miranda Warnings are?

22 A Yes, sir.

23 Q You've heard them before, right?

24 A Yes, sir, I have.

1 Q . And he never gave you any Miranda Warnings?

2 A No, sir, not to my knowledge.

3 Q Okay. Well, you were right there. I mean
4 he didn't give you any Miranda Warnings?

5 A That's right.

6 Q Okay. And so then did you have any
7 conversation with him about any robbery?

8 A No, sir.

9 Q You didn't tell him anything about a robbery?

10 A No, sir.

11 Q At 116th and Western?

12 A No, sir.

13 Q So after he let you go to the washroom he
14 walked out of the room again, right?

15 A He waited until I came from the washroom.
16 Then he locked me back in the room.

17 Q He just locked you back in the room, right?

18 A Yes.

19 Q He didn't have a conversation with you?

20 A No, sir.

21 Q Then about eleven thirty in the morning he
22 came in there with an Assistant State's Attorney,
23 right?

24 A Yes, sir.

1 C Okay. Mr. Wilbur Crooks, right?

2 A I have no knowledge of what his name is.

3 Q Well, a black fellow about your age, right?

4 A You're correct.

5 Q Sir?

6 A He's a black fellow.

7 Q About your age, right?

8 A I have no knowledge how old he was, sir.

9 Q Well, in his late thirties, forties?

10 A I have no knowledge how old he was, sir.

11 Q Well, you talked to him, didn't you, to

12 Mr. Crooks, the State's Attorney?

13 A He asked me would I like to sign a statement.

14 Q Well, you had a conversation with him, didn't
15 you?

16 A All depends what you call a conversation.

17 Q Well, did he ask you some questions and did
18 you give him some answers that morning?

19 A He didn't ask me no questions.

20 Q He didn't ask you any questions?

21 A No.

22 Q He didn't ask you anything about the armed
23 robbery?

24 A No.

Q And Detective Paladino never asked you any

1 questions about the armed robbery?

2 A No.

3 Q At any time that morning?

4 A Not the time when he first came in to see
5 me, no, sir.

6 Q Okay. And when he first came in to see you
7 the only thing he asked is would you sign a statement?

8 A No, sir, he didn't say that.

9 Q What did he say when he first came in to see
10 you?

11 A I asked him if I could go to the washroom
12 when he first came in.

13 Q Well, I'm sorry.

14 A If you're speaking of Detective Paladino,
15 sir.

16 Q I'll rephrase that question.

17 When the State's Attorney, Mr. Crooks,
18 first came in to see you, what did he say to you?

19 A He asked me he understood I was agreeing to
20 sign a statement.

21 Q Okay. And you said what?

22 A I said yes.

23 Q And you said yes?

24 A Yes.

1 Q Okay. You didn't tell Mr. Crooks that you
2 had been beaten up the night before?

3 A I didn't tell him nothing. I was told not
4 to do so. I didn't open my mouth.

5 Q You didn't say anything? You didn't say
6 anything about the lieutenant putting the gun to your
7 head the night before?

8 A No, sir.

9 Q You didn't say anything about the lieutenant
10 putting a bag over your head, right?

11 A No, sir.

12 Q Okay. So after you told him you'd sign the
13 statement, then he walked out of the room again, right?
14 The Assistant State's Attorney Crooks?

15 A Yes, sir.

16 Q And then he came back in the room with
17 Detective Paladino, right?

18 A Yes, sir.

19 Q Then they gave you a statement to sign?

20 A Yes, sir.

21 Q This has been previously marked as Defendant's
22 Exhibit Number One for Identification. I'll ask you
23 to look at that, sir, which consists of two pages.

24 I'll ask you to take a look at that

1 statement. Do you recognize that? Do you recognize
2 that, sir?

3 A I recognize some of it. It looks like it's
4 the statement.

5 Q Okay. For the record, you have just spent
6 about the last twenty-five seconds to read that right
7 in court, isn't that correct?

8 A I looked at it, yes, sir.

9 Q You read it, right?

10 A I seen it, yes, sir.

11 Q Okay. You don't have any problem reading,
12 do you?

13 A Not to my knowledge.

14 Q Okay. And your signature appears both on
15 the first page, underneath what contains the Miranda
16 warnings, correct?

17 A Yes.

18 Q That's your signature, isn't it?

19 A Yes.

20 Q Okay. You also placed your initials at the
21 bottom of the first page, "SM," is that correct?

22 A Yes.

23 Q You placed those initials there, isn't that
24 correct?

1 A Yes.

2 Q And you also initialed the--and signed the
3 second page of that statement, is that correct?

4 A Yes.

5 Q And Mr. Crooks, the State's Attorney, and
6 Detective Paladino were present, right?

7 A Yes, sir.

8 Q Okay. And they simply presented you with
9 this and asked you to sign it, right?

10 A Yes.

11 Q Well, they let you read it first, didn't
12 they?

13 A No.

14 Q Well, Mr. Crooks read it out loud to you,
15 didn't he?

16 A He read what was supposed to be in the--

17 Q But he read what was on the statement to you,
18 right?

19 A What was supposed to be said on the statement,
20 yes, sir.

21 Q Okay. Well, the statement was right in front
22 of you, right? I mean you signed it.

23 A I was sitting in the chair and he--

24 Q And he read the statement to you, right?

1 A He was reading it, yes.

2 Q And he started at the top and first went
3 over your Miranda Warnings, right?

4 A Not to my knowledge. He started where the
5 writing is.

6 Q Well, you signed a line right underneath a
7 paragraph that contains the Miranda Warnings, correct?

8 A To the best of my knowledge, yes, sir.

9 Q And you signed it back on October 31st,
10 right?

11 A Yes, sir.

12 Q And this was around twelve fifty p.m., is
13 that correct

14 A Yeah.

15 Q Then he read the statement to you, right?

16 A Yes.

17 Q Okay. And he asked you if it was true, to
18 sign it, is that correct?

19 A That's correct.

20 Q And you agreed to sign it at that time, right?

21 A Yes.

22 Q In fact, you did sign it.

23 A I did, yes, sir.

24 Q Okay. In fact, the last line of the statement

1 says, "I have been treated well since I have been in
2 police custody and I have had something to eat." That's
3 what the last line of the statement says, right?

4 A Yeah.

5 Q Okay. And that was true, correct?

6 A Wasn't true.

7 Q Wasn't true? Okay. Nevertheless, you signed
8 it, though, right?

9 A That's right.

10 Q Now, Mr. Crooks told you that he was an
11 Assistant State's Attorney, that he wasn't a police
12 officer, right?

13 A Right.

14 Q You knew he was an attorney, didn't you?

15 A Yes, sir.

16 Q You knew he was a prosecutor, right?

17 A I knew he was an attorney.

18 Q Well, you knew he was the prosecuting attorney
19 working with the police. You knew that, didn't you?

20 A He informed me of that.

21 Q Okay. Now, you signed this at around twelve
22 fifty p.m., a little before one o'clock in the
23 afternoon, right?

24 A Yes, sir.

1 Q . And Lieutenant Burge; you didn't see him
2 at that time, did you?

3 A No, sir.

4 Q And Detective Paladino didn't make any
5 threats to you, did he, at any time?

6 A No, sir.

7 Q He was-- He treated you fairly? Is that a
8 fair statement?

9 A He never had nothing much to say to me.
10 We didn't have that much contact.

11 Q You never had a conversation with him is your
12 testimony, right?

13 A That's correct.

14 Q And you never provided either Detective
15 Paladino or Mr. Crooks with what is in this statement?

16 A I never told them verbally nothing. They
17 brought the statement to me.

18 Q Okay. And you never told them anything
19 about this statement?

20 A No, sir.

21 Q You didn't tell them anything about a robbery
22 at the Brown's Chicken?

23 A No, sir.

24 Q You never provided the police with anything

1 much more than your name and where you lived, is
2 that right?

3 A That's correct.

4 Q And you're telling this Court that the
5 reason you signed all of this is that you were in
6 fear of your life, is that correct?

7 A That's correct.

8 Q And you were still in fear of your life
9 that afternoon with just the Assistant State's Attorney
10 and Detective Paladino there, right?

11 A That's correct.

12 Q Okay. You feared-- You feared Lieutenant
13 Burge, is that right, sir?

14 A That's correct.

15 Q And you never made any complaints to any
16 other detective or to the State's Attorney, Mr. Crooks,
17 out there about any mistreatment by Lieutenant Burge
18 or anybody else?

19 A No, I didn't.

20 Q In fact, when you went to the County Jail
21 on November 1st of 1985, you were first processed in
22 the intake division, is that correct?

23 A That's correct.

24 Q And you see a paramedic and they examine you

1 physically, right? You remember that?

2 A Yes.

3 Q You're familiar with that procedure, correct?

4 A Yes, sir.

5 Q Okay. And you made no complaint at all to
6 that paramedic at the Cook County Jail of any mistreatment
7 by the police, correct?

8 A I did not.

9 Q Okay. And, in fact, there were no injuries
10 of any type to your wrists from the handcuffs, right?

11 A That's correct.

12 Q No marks, no bruises, no swelling, right?

13 A That's correct.

14 Q You didn't complain of any pain to your
15 wrists, did you?

16 A No, sir.

17 Q You didn't tell the paramedic you had been
18 made unconscious two separate times the evening
19 before? You never said that, did you? Correct?

20 A That's correct.

21 Q You still had your glasses when you went
22 to be examined at the Cook County Jail, correct? You
23 had your glasses on?

24 A To the best of my knowledge I did, sir.

1 Q Now, you saw Lieutenant Burge-- Strike
2 that. Let's get back to the statement, Defendant's
3 Exhibit Number One for Identification.

4 You had an opportunity to read this now
5 in court, correct?

6 A Yes, sir.

7 Q Okay. And Assistant State's Attorney
8 Crooks read it to you in the interview room there
9 at Area 2, correct?

10 A Yes, sir.

11 Q Okay. And you have no idea what was-- No
12 knowledge of anything that's contained in that
13 statement?

14 MR. DOHERTY: Well, Judge, I'm going to
15 object. I don't know if content is in issue or
16 in evidence, and I don't think it's germane or
17 proper for the State's Attorney to inquire as to
18 the knowledge of the defendant as to content.

19 THE COURT: Objection overruled. He testified
20 he never made any statement whatsoever. Go ahead.

21 MR. REILLY: So you never provided him with
22 any of the information in this statement, right?

23 A It was wrote up. No, sir.

24 Q You read it today and you read it back on

1 October 31st of 1955 before you signed it, right?

2 A It was read to me.

3 Q You read along with the State's Attorney,
4 right?

5 A I looked at it.

6 Q You knew what was in the statement then when
7 you signed it?

8 A Some of it.

9 Q Well, he read this statement to you and
10 asked you to sign it in two separate places, correct?

11 A That's correct.

12 Q And he read the entire statement before he
13 asked you to sign page two of that, correct?

14 A To the best of my knowledge.

15 Q He read the entire statement?

16 A Read it from where the words started writing,
17 to the best of my knowledge.

18 Q Well, you listened to what he said?

19 A I understand that.

20 Q You listened to every word and every line
21 that he read to you that time, right?

22 A Best of my knowledge, yes, sir.

23 Q And after he read all that to you he asked
24 you to sign it and make any corrections if it was true,

1 correct?

2 A He never asked to make no corrections.

3 Q Well, he asked you to sign if it was true?

4 A Yes.

5 Q And you signed it then at that time, correct?

6 A Yes, I did.

7 Q You never interrupted him and told him
8 something in that statement wasn't true, did you?

9 A I didn't say anything to him.

10 Q You didn't say anything?

11 A No.

12 Q And you never provided him with any of the
13 information that he read to you?

14 A No, sir.

15 Q Not one bit of information?

16 A No, sir.

17 Q Now, the next time you saw this Lieutenant
18 Burge was later the night after you had signed this
19 statement, right?

20 A Yes, sir.

21 Q This State's Attorney had already gone, or
22 he wasn't in your presence?

23 A Yes, he had already gone.

24 Q You already signed the statement, right?

1 A That's correct.

2 Q And you didn't receive anymore threats
3 from Lieutenant Burge then that night, did you?

4 A No, I didn't.

5 Q In fact, Lieutenant Burge gave you his card,
6 didn't he?

7 A I don't recall, sir.

8 Q Well, you called him up a few times after
9 this happened, didn't you?

10 A I called to see about my car when I bonded
11 out, sir.

12 Q And you called Lieutenant Burge, right?

13 A He told me to call him if I wanted my car.

14 Q And you did call him a couple of times?

15 A I called him to see about my car.

16 Q He helped you, assisted you, in getting some of
17 the items out of your car?

18 A He got some bags out of the car for me that
19 belonged to some people I was doing--

20 Q And he arranged for all of that, right, as far
21 as you know?

22 A The best of my knowledge.

23 Q How many different conversations-- How many
24 times did you call Lieutenant Burge after this?

A I only have knowledge of calling him a couple of times.

MR. REILLY: If I may have a moment?

THE COURT: Yes, you may.

MR. REILLY: I have no further cross examination.

THE COURT: Redirect?

MR. DOHERTY: very briefly.

REDIRECT EXAMINATION

By Mr. Doherty:

Q When you called your friend from the 61st Street police station, had you been subjected to any physical attack or abuse at that police station?

A No. ser.

Q Were you wearing a watch when you were taken from police station to police station and questioned?

A No, sir, I did not.

Q The medical people down there at the Cermak Hospital-- That's connected to the Cook County Jail, right, the Cermak Hospital?

A Yes, sir.

Q You told them you had chest pain or pressure sensations, didn't you?

A Yes, sir.

Q You told them you were having eye problems,

1 didn't you?

2 A Yes, sir.

3 Q Did you understand, when you signed the
4 statement at twelve fifty p.m. on October 21st, that
5 Lieutenant Burge was coming back to the 111th Street
6 police station that day?

7 A Yes, sir, he informed me that he would be
8 back that night to see what I had done.

9 Q The medical people that you spoke to at the
10 Cermak Hospital, you also told them you were-- You
11 complained of a faint like feeling to them, didn't
12 you?

13 A Yes, I did.

14 MR. DOHERTY: Nothing further.

15 THE COURT: Any recross at all?

16 MR. REILLY: If I may have a moment, Judge?

17 Nothing further.

18 THE COURT: All right. You're excused, Mr. Mumford.
19 You may have a seat at counsel table.

20 (Witness Excused)

21 THE COURT: Okay. Any further witnesses for
22 the defense?

23 MR. DOHERTY: No, we rest, Judge.

24 THE COURT: Is the defense alleging there are

1 any further witnesses that were not produced by the
2 State?

3 MR. DOHERTY: Judge, for purposes of this
4 motion I am not going to invoke the material witness
5 rule and I am not arguing that. I told them that
6 the State's Attorney need not be produced.

7 THE COURT: Well, there is no allegation in
8 your motion that anyone was present other than
9 Lieutenant Burge, except through the testimony of
10 your client, who indicated there was another
11 individual present during the discussion with
12 Lieutenant Burge previous to being placed in the
13 interview room.

1 Now, if you want that individual
2 called, if you can identify that individual, that
3 other detective who, allegedly, through the testimony
4 of your client, was allegedly present when Lieutenant
5 Burge committed certain acts, then--

6 MR. DOHERTY: Judge--

7 THE COURT: If so, it's the State's burden to
8 put that individual on if we can ascertain who he is.

9 MR. DOHERTY: No, I am prepared to rest and
10 not invoke the material witness rule, Judge.

11 THE COURT: Okay. All right. Any argument on

1 the motion?

2 MR. DOHERTY: Well, I do have a separate
3 motion, though, Judge. I have a motion rarely
4 used in criminal matters, but I submit there is
5 authority for it. I have a motion to amend the
6 motion with its supplements to conform to the
7 proofs. That is more often seen in civil practice,
8 even though I don't practice civilly, but I am moving
9 to state a violation of Miranda versus Arizona from
10 the outset with questioning by Lieutenant Burge.

11 I am taken by surprise by his testimony
12 in this respect, but I believe that his testimony
13 revealed here indicates that he invoked questioning,
14 what would be equivalent of questioning under Brewer
15 versus Williams, which was the Christian burial speech.
16 He said he wanted to give the defendant food for
17 thought and alert the defendant that he had been
18 implicated by a co-defendant. At that point the
19 defendant agreed to cooperate.

20 He did not make a statement, according to
21 his testimony, but he agreed to cooperate. So, in
22 other words, he was told certain facts, food for
23 thought, whatever, without having received the
24 benefit of Miranda versus Arizona. I submit that

1 that is the equivalent of questioning and we then
2 get into the Supreme Court cases known as the cat
3 out of the bag theory, that once there is an improper
4 questioning and the defendant admits participation,
5 any later statement is also tainted. Does Your
6 Honor want authority on that?

7 THE COURT: No, there is no statement given
8 by the defendant subsequent to this statement made
9 by Lieutenant Burge being admitted to on direct
10 examination. There is no admissions whatsoever
11 allegedly made by the defendant at that stage other
12 than, "I will cooperate," whatever that may mean,
13 subsequent to that. The testimony that I heard
14 was the defendant agrees he was placed in the room
15 and wasn't confronted again until about nine o'clock
16 the following morning by Detective Paladino, who
17 would testify that he gave him his rights and elicited
18 an oral statement, and the State's Attorney was called
19 and he gave him his rights and there was a waiver
20 signed by the defendant, and subsequent to that
21 there was another statement given.

22 Lieutenant Burge's statements to the
23 defendant weren't in the line of questioning just telling
24 him what he knew and why he was there. His testimony

1 was the defendant said, "I'll cooperate," or words
2 to that effect, without admitting anything or
3 divulging any facts whatsoever.

4 So I'll allow you to amend your motion, but
5 did you wish to call any witnesses in that regard?

6 MR. DOHERTY: No, just to amend to include
7 the allegation that it was a violation of Miranda
8 and Brewer versus Williams and then the cat out of the
9 bag concept. Regardless of the impact if may have
10 on Your Honor, I wish to include these legal
11 principles in argument here.

12 THE COURT: I understand.

13 MR. DOHERTY: My argument, very briefly,
14 Judge, is that I submit, Judge, you have to rule
15 based on the testimony here. It's not a question
16 of material witnesses. The defendant made allegations.
17 That is the defense portion. The State denies those
18 allegations.

19 Now, he is in custody for eighteen
20 hours. It's undisputed that he was held in a little
21 room all night until the next morning. He says he was
22 not fed and, additionally, Judge, it's an unsolved
23 crime as to the defendant. Five months go by. And
24 Your Honor heard testimony that the defendant is an

1 ex convict. It's almost incredible that he's just
2 going to agree to cooperate. There is no warrant for
3 his arrest. He's not under arrest nor placed under
4 arrest, transported from one station to another and,
5 okay, I'll cooperate. Just let me sign. And that's
6 the totality of the evidence against him, a written
7 signature on something drawn up by somebody other
8 than him. Nothing further.

9 THE COURT: Okay. Response?

10 MR. REILLY: Judge, for purposes of the
11 record, as long as counsel has amended his motion
12 alleging Miranda violations by Lieutenant Burge--

13 MR. DOHERTY: Well, I think it's in the record
14 that Paladino claimed he advised him of his rights
15 at nine a.m. prior to any statement. I do think that's
16 clear and I'm not alleging a Miranda violation from
17 Paladino.

18 THE COURT: Right. I know what you're saying.

19 MR. REILLY: Okay.

20 MR. DOHERTY: It's the cat out of the bag, that
21 he was told he was implicated in a robbery prior to
22 being given Miranda by the lieutenant.

23 THE COURT: I understand.

24 MR. DOHERTY: So I will agree to that, but that's

1 in the record.

2 MR. REILLY: Okay.

3 THE COURT: All right.

4 MR. REILLY: Judge, if I can respond to that.

5 Again I think the Court made the point, and I will
6 reiterate that point, that Lieutenant Burge was
7 merely advising the defendant of why he had been
8 brought over there from 61st and Racine to 11th
9 Street, that he had been implicated in an armed
10 robbery by a female juvenile offender. That the
11 detectives on the case were not there, that he would
12 make efforts to contact them, and it's in the record
13 that Lieutenant Burge contacted--did successfully
14 contact Paladino at home, who was asleep.

15 Lieutenant Burge's conversation with the
16 defendant was less than five minutes, and it was
17 gone over time and time again on cross examination
18 that there was no statement elicited and no
19 interrogation of the defendant in any way, shape
20 or form regarding the armed robbery of the Brown's
21 Chicken by Lieutenant Burge. The evidence was
22 very clear that he was then placed in an interview
23 room until some time the following morning, when he
24 was advised of his constitutional rights, and there was

1 a conversation with Detective Paladino. It is then
2 clear from the record that Assistant State's Attorney
3 Wilbur Crooks was summoned to Area 2 and that further
4 conversations were had, the defendant was further
5 admonished as to his constitutional rights and that
6 a written statement was, in fact, read and signed
7 by the defendant.

8 The court also, from the defendant,
9 heard that while he claims to have been knocked
10 unconscious as a result of this bag over the head
11 as well as handcuffs put on his wrists numerous
12 times and tightened to the point where they were
13 numb and pained him terribly, there were apparently
14 no marks, no bruises, no swelling, no numbness, and
15 that additionally, that when he was examined by a
16 paramedic on the 1st of November, 1985, at the Cook
17 County Department of Corrections, he made no complaints
18 of police maltreatment, and there is no evidence of
19 any injury at that time to his wrists and he made no
20 complaint of the police knocking him unconscious
21 several times the evening prior.

22 I would argue to the Court that the
23 scenario that the defendant puts forth regarding
24 the signing of that statement is not believable, it's

1 not credible, and that the testimony put forth by
2 Detective Paladino and by Lieutenant Burge is
3 certainly more credible, more logical and more
4 believable. I ask the Court to deny the motion
5 to suppress as it stands.

6 THE COURT: Any response from the defense?

7 MR. DOHERTY: No, Judge, we rest.

8 THE COURT: Based on the testimony of the
9 witness who testified, including the defendant,
10 relative to the allegations put forth in the
11 motion that the defendant was coerced and placed
12 in a situation of psychological duress and forced
13 to sign the statement, as a matter of fact he testified
14 he never even made a statement, he was forced to sign
15 a statement prepared by Assistant State's Attorney
16 Wilbur Crooks relative to an armed robbery, an
17 incident occurring in the Brown's Chicken at 116th
18 and Western. I've observed the witnesses as they
19 testified and listened carefully as to what they
20 said.

21 It is this Court's position and factual
22 finding that Lieutenant Burge at no time did commit
23 the acts that are alleged in the motion. I believe
24 Lieutenant Burge and I disbelieve the defendant. It's

1 a credibility issue. Based on the testimony I
2 heard the defense motion to suppress the statements
3 acknowledged by the defendant, rather than made by
4 the defendant, is denied.

5 All right.

6 MR. DOHERTY: Thank you, Judge. What is the
7 status of the other three defendants? I don't know
8 where--

9 MR. REILLY: June 22nd for a conference.

10 MR. DOHERTY: What date is that?

11 MR. FINN: June 22nd.

12 MR. DOHERTY: May we appear on that date, Judge?

13 THE COURT: Sure. And in the event the
14 conference isn't fruitful-

15 MR. REILLY: I'd like to resolve it one way or
16 the other at that time, Judge.

17 THE COURT: Okay.

18 MR. REILLY: Maybe set it for a trial that date.

19 MR. DOHERTY: Okay.

20 THE COURT: Is this by agreement?

21 MR. DOHERTY: Yes, sir.

22 MR. FINN: 6-22-37.

23 MR. DOHERTY: Okay. Judge, there is a request
24 the defendant is making. The bond was once exonerated by

1 his lawyers.

2 THE COURT: Right.

3 MR. DOHERTY: And that put him in a no bond
4 status.

5 THE COURT: Right.

6 MR. DOHERTY: And he is in high security at
7 Cook County Jail as a result of that. His bond was
8 thirty thousand. He has a hold out of Milwaukee,
9 an extradition hold, which is the reason it was
10 exonerated. We are requesting that Your Honor set
11 a bond.

12 It's not a death penalty murder case. We
13 are asking the bond set be the original thirty
14 thousand, Judge, which would put him in a different
15 classification at the Cook County Jail. He is now
16 being held with the no bond people and he's forty-three,
17 Judge, and even though he's got a record, he's really
18 sedated and docile, and being a middle-aged jail
19 resident the young, high maximum security people are
20 marking his life rather memorable or different.

21 THE COURT: All right. Before I get into that
22 issue does the State have any objection to resetting
23 the original bond of thirty thousand?

24 MR. REILLY: Yes, Judge, absolutely.

1 THE COURT: Well, let's have a hearing then.

2 MR. DOHERTY: Okay.

3 THE COURT: But I'm taking five minutes now.

4 MR. REILLY: Okay.

5 MR. DOHERTY: Okay, Judge.

6 (whereupon a recess was taken in the above
7 entitled cause, after which the following
8 proceedings were had:)

9 THE CLERK: People versus Shadeed Mumin.

10 THE COURT: All right. This is a motion to set
11 bond now.

12 MR. DOHERTY: Yes, Judge, a motion to set bond.
13 I'm asking that the bond that the defendant was on be
14 reset. That bond was exonerated and he was held on
15 a no bond, and I don't think this is a proper bail
16 status on this particular case because it's not a
17 death penalty case, Judge. He's not-- He doesn't have
18 the money to bond out, three thousand dollars or any
19 other sum, and a Governor's warrant has arrived for
20 him.

21 THE COURT: Which is a hold.

22 MR. DOHERTY: There is a hold.

23 THE COURT: All right. We'll set a bond then.

24 MR. DOHERTY: I'm suggesting thirty thousand, Judge.

1 THE COURT: Okay. Did you wish to put the
2 defendant on?

3 MR. DOHERTY: No, Judge. He's forty-three years
4 old. The State will talk about his record. He was
5 running a leather shop on the south side of Chicago
6 at the time. He had a car, and when he made bond
7 he contacted the lieutenant, the lieutenant got his
8 car, got his leather bags that he made for other people.
9 He's an artisan. That's his profession.

10 But his-- He is not really seeking
11 release, Judge. He's just seeking a bond status.

12 THE COURT: Whatever. He's entitled to a bond.
13 Okay.

14 MR. REILLY: Judge, I'd like to be heard
15 regarding the defendant's bond. We would expect the
16 evidence at trial to show that on the 24th of July,
17 1955, that the Brown's Chicken at 11605 South Western
18 was entered by two young men, one, we would expect
19 the evidence to show, being the son of the defendant,
20 as well as another individual.

21 That during the course of this armed
22 robbery that the victim, the manager of the place,
23 Mr. Daniel Plowman, was shot once in the chest during
24 the course of this armed robbery. That there was a

1 large amount of money taken. Strike that. There
2 was a demand for money and money was, in fact,
3 taken, and that the victim in this case, Mr. Plowman,
4 was taken to St. Francis Hospital in critical
5 condition as a result of the gunshot wound.

6 We would expect the evidence to show
7 that the Defendant, Mr. Mumin, before the Court,
8 was implicated by a female juvenile who was with
9 Mr. Mumin, and the other co-defendants.

10 We would expect the evidence to show
11 that the defendant provided the police and Assistant
12 State's Attorney with a written statement on the 31st
13 of October, in which the defendant admitted to the
14 police and the State's Attorney that he drove the
15 other two offenders to this location for the purpose
16 of robbing the Brown's Chicken on Western Avenue,
17 that he was aware that they were armed with hand-
18 guns, and he was also aware that when they went in
19 there and they came running out to the car that he was
20 driving he was informed that they had to shoot the
21 guy inside the Brown's Chicken.

22 We further expect the evidence to show
23 that-- Well, that is what we would expect the evidence
24 to show regarding this case. I think the Court, in

1 setting a bond, should consider the fact that this
2 defendant has been twice convicted of felony
3 offenses in other states and other jurisdictions.
4 Specifically in 1972 under the name of George Ramsey,
5 the defendant was convicted of armed robbery in
6 Marion County, Ohio, and received ten to twenty-five
7 years in the penitentiary.

8 After being paroled from Marion County
9 for that sentence the defendant was arrested in
10 Indiana and in March of 1977 convicted of the
11 offense of robbery, and again given a sentence of
12 ten to twenty-five years in the Indiana penitentiary.

13 Your Honor, he was paroled on January
14 25th of 1982. In addition, this Court heard testimony
15 during the course of the motion to suppress that
16 when he was arrested on October 30th of 1985 he was
17 found in possession of a .357 Magnum in his automobile,
18 the 1978 yellow Buick, the same car used and what
19 we believe-- Or what the evidence would show to be
20 the same car that was used in the armed robbery
21 in July of 1985 regarding the Brown's Chicken.

22 The defendant was charged with that
23 case, charges were approved by the Assistant State's
24 Attorney, however, he has not been charged in an

1 indictment with that case.

2 Additionally, Your Honor, the defendant is
3 wanted by the Milwaukee Police Department and there is .
4 currently a warrant for his arrest for armed robbery
5 from Milwaukee, Wisconsin. I have Detective Glynn
6 here and I think he can provide some more information
7 regarding that offense. I only bring this to the
8 Court's attention because I have been informed,
9 by Mr. Joe Nigro from our office that while there
10 is a Governor's warrant here which has placed a hold
11 on Mr. Mumin, Mr. Mumin is represented by Mr. Julius
12 Echles in front of a habeas corpus petition which is
13 pending before Judge Richard Fitzgerald and that's
14 going to be up tomorrow I understand, and it has
15 been pending for some time, and it may be premature
16 for me to suggest what is going to happen, but
17 Mr. Nigro indicated to me that that warrant may be
18 withdrawn temporarily since the defendant is asking
19 that he be extradited on that charge.

20 So for those reasons I am going to ask,
21 first of all, that I call Detective Glynn regarding
22 the armed robbery charge that is pending which the
23 defendant is wanted for in the State of Wisconsin.

24 THE COURT: Is it the State's position on the

1 don't know what the bond will be. Well, I'm not-- I
2 won't consider that, but I will consider in aggravation
3 in setting a bond what the evidence is expected to
4 show in the State of Wisconsin.

5 MR. DOHERTY: Uh-huh.

6 THE COURT: Without going into the facts, I'll
7 just consider the fact there is pending an armed
8 robbery in the State of Wisconsin.

9 MR. REILLY: Correct. And he's wanted by the . . .
10 Milwaukee police, Judge, for the armed robbery of a
11 fast food type restaurant.

12 THE COURT: Okay.

13 MR. REILLY: Where a weapon was used. With
14 those representations, Judge, it is our position
15 that a thirty thousand dollar bond is not appropriate
16 in this type of case. It's a Class X Felony charging
17 him with armed robbery and attempt murder. He has . . .
18 two previous felony convictions in other states, other
19 jurisdictions, Ohio and Indiana. The Court has been
20 made aware of the fact that the defendant is wanted
21 in the State of Wisconsin for a similar violent
22 crime, and to assure his presence on each and every
23 court date we would argue to the Court that thirty
24 thousand dollars is not sufficient and that one hundred

1 fifty thousand would be sufficient in light of his
2 background, in light of the charges, and to assure
3 his presence here on each and every court date.

4 You have no evidence that he has any ties
5 to the community. You have heard only evidence of
6 other jurisdictions where he's committed crimes. So
7 we would object to a bond of thirty thousand dollars
8 and ask for a substantial bond.

9 THE COURT: All right.

10 MR. DOHERTY: Judge, he was released on bond
11 on this particular case and appeared every time. We
12 filed a habeas corpus on the Milwaukee Governor's
13 warrant, but I'm not aware of any intention to
14 withdraw that.

15 THE COURT: I won't consider it.

16 MR. DOHERTY: And, Judge, the statement they
17 referred to, I'd like to-- It's been marked Defendant's
18 Exhibit Number One for Identification on this bail
19 hearing and I'd like to resubmit it for Your Honor
20 to examine. He was driving alone and he encountered
21 his son and two other people, gave them a lift to
22 the Chicken Place, they said they wanted to get some
23 money. When they came out they announced that they
24 had robbed someone. I don't think that he had joined

1 I'll set the bond at sixty thousand dollars.

2 MR. DOHERTY: Thank you, Judge.

3 THE COURT: Okay.

4 MR. DOHERTY: Thanks.

5 THE COURT: All right.

6 (Whereupon the further proceedings in the
7 above entitled cause were continued to
8 June 22nd, 1987.)

Field File No. _____

Serial # of Originating Document _____

OO and File No. 444-06-78234

1A0

Date Received 10/29/90

From _____

(Name of Contributor)

(Address of Contributor)

(City and State)

By _____

(Name of Special Agent)

To Be Returned Yes No Receipt Given Yes NoGrand Jury Material - Disseminate Only Pursuant to Rule 6(e), Federal Rules
of Criminal Procedure Yes No

Title:

Commander John Burge,
Chicago Police Dept.
-VictimReference: CR
oo:CT

(Communication Enclosing Material)

Description: Original notes re interview of _____b6 -1
b7C -1b6 -2
b7C -2

KEEP ATTACHED TO EXHIBIT
SI 44A-Cg-78234 1AC

10/29/90

4²⁰
PM

N 74642

Qwest

b6 -2
b7C -2

legally charged app 1978 or 79.

POB

unite # [redacted]

address: [redacted] - [redacted]

beard
& mustache

SSAN

[redacted]
Brown eyes

6' [redacted]

220 [redacted]

Dark hair, very Collarbone

Dark Eyes, High Chest

Curious Glasses

7-19-78-21 Armed Robbery

Marietta, Ohio
Convicted & served 3 yrs.

Lebanon Correctional
Facility - Lebanon, Ohio

Off 65-65 [redacted]
A & B - Dayton, Ohio
no contacts

19-cv-4048(FBI)-101

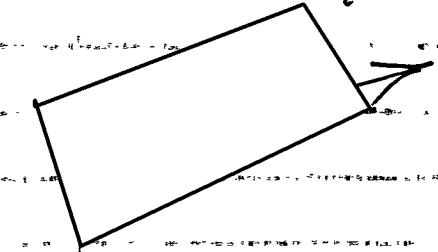
no other arrests with the
Charge.
Committed 1987
Slurvy ~~attempt~~ murder,
attempted battery
& Armed Robbery.
from Robbing at Brown's
Clinton Ohio

15 yrs.

Oct 30, 1985 -

was at my leather shop
on 5th St - left about 5³⁰-6⁰
to take some passes to
finds [unclear] had made for them

before took passes stopped on
on St about 1 blk of Halstead
few there took wife wife
with to hospital - gothen
Halstead & was stopped.



[redacted] was woman
name [redacted] (L.V.)

Mr. [redacted] remember add.

b6 - 6
b7C - 6

Stopped by 2 CPD -
wearing plain clothes.
names unk. white
Cops.

Said were stopped for
routine check - one
ask about a shotgun
I told him didn't know
went talking about - asked
me to open trunk for
them. One open looks
through belt & car

Did not give permission to
look thru car - did it while
I was talking to other

found a ~~keycase~~
what I had behind the drivers
seat - found 357 revolver
in case along with - leather
wristband. Does not fit

Arrest me under arrest.

Put cuffs on me & called
for paddy wagon - didn't
tell what arresting for -

they took me to police

station in Oakland - This

believe is 7th Dist. & addtional officer took me
at 1st &
still in same cuffs.

wives up - didn't
talk to them.

This is around 7 pm - started
to get dark.

women & kids went
back home - wasn't far
from the house

Put me in little room -
still cuffed - cuffed behind -
no problems with cuffs.

There were 2 plain clothes men
in there at their desks.

If you asked one of them
what being charged with
and didn't know. - One
of them made phone call
& told me they were trying
to get me to take me
to Area on 11th St.

No names -
no problems - 1 white
& one black. Black made
the phone call. - Didn't
say who was calling.

In that room I went to go to
2 uniform men came to room
& took me to paddy
still in same cuffs - didn't
names unknown - both
white.

Took me to about 2
took me up to ~~office~~
section. Put me in
little room with steel bench
along wall - took cuffs off
& left - in room by
myself.

after dark when got to
area & about ^{about} ~~Commander~~
in these 15 minutes ~~at~~ Burge.
Came, white male, late 40's.
heavy 5'8"-6' - 230-240 -

Said - "You're a big fellow"
What can you tell us about
a robbery at Browns
Chicken Place - he would
be saying,

I told him didn't know
what he was talking - was
sitting on bench. not cuffed
by himself.

He left room & came
back about two later.

ask me if ready to
talk. said didn't know
what talk about.

Told me to stand up
& turn around - he put cuffs
on me real tight - hands
back to back.

had both his cuffs - bailed
one agent wall & some
were pushed into circle into
wall -

Could sit down - had to
stand - Could not sit down.

Said "you will talk when
I get back"

no place
to move
let you talk
for

left room - back about
the - Cuffs had cut into
wrists - I see they're
cut into your wrists. and
asked if ready to talk.
I told him had nothing
to tell him.

He loosened the cuffs
at this point & demand
them sit down.

He said you will
talk before you get
out of here - One day
push like you before.

I sat there all night
door is in front of me. for
a fact.

About 11am 1/2 now

planter
or [redacted]

[redacted]
spur

ad asked if I
was ready to talk to him

I told him had nothing to
talk to him about. He left.
Rained & another planter
(Clothes future) Came back &
took me to another room
on same floor. Was another
room with benches no desks.
Unlocked from wall bell
left cuffs -

Took cuffs off in this room
[redacted] again asked me

b6 -4
b7C -4

if ready to talk. - told
me had nothing to say.
then for appear 2 his
Comrade Biggs Come in
and another planter
guy Come in into my
cage [redacted]

Hair - Lt brown

no beard above ears
insurte? my length-
glasses? had tie on.
& suit type jacket

name unk.

would recognize you

Burg sent us Goy
to take me back. He
drove to Court. Took
me to Burg's office -
without cuffs

Sat me down in chair
across from his desk.
Other guy sitting in
Chair - to my right.

Asked me questions about

b6 -6

b7C -6

I told him that [redacted]
went talking about
got annoyed - said
tell [redacted] guy to cuff
me behind back - am
are behind chair - this
guy is longer.

Burg said you will
tell me. Asked me
when they were ab-

He made a phone call to my

[redacted] - I asked

her if she had seen [redacted]

19-cv-4048(FBI)-109

[redacted] - He was reading ^{b6 - 6}
~~Concentrating~~ ^{b7C - 6}

He played tags back. —
He got on phone & told her

If [redacted] she could tell
where at - otherwise they
would shoot him on sight.

After all played back tags
of the Concentration

told me that she lying.
You will tell me what
water now - I kindly
smiled.

He pulled open chamber
on right hand - pulled
out .44 magnum revolver
with long barrel covered
gray.

Took all bullets out
but one - put five
in a box in trunk

Open Cylinder -

Told me ' You will
talk or I'll blow your
blood fuckin' brains out'

got up walked over to me
Put barrel in center of forehead
& Clicked it, spun cylinder,
Clicked it again behind & did this
three times. Could see the
a bullet in the cylinder.

Put gun back in
drawer -

became scared - said
you will talk

He went off to wash
off his clothes & got a
Cover of a leather gray
plate ^{bottom} cover - became
leather. — put it over
my head & try to get
up - hold took other
gray - "hold this black
fisher form" his hand
me holding form on my
shoulders.

Boys put over head
used one hand to hold
back of head & other
pressed into face so
cold & breathless

About 3 seconds
so I passed

he blew some nose in my
face - and asked ready
to talk - told him didn't
know what tooks don't

put on head again
I passed at second time
Ready to talk - still kept
you up open don't talk
after 3rd time of passing
out -

I told him not to
do it anymore - I told
him I will tell him
anything wanted to know.

~~I told him~~ he told me
that if I tried to tell
anybody about this nobody
would believe me.

There was a

b6 -4

b7C -4

[redacted] sitting in
another office right next
to his - with door open
& could see & hear
the pin on - he was
laughing -

about
anything

19-cv-4048(FBI)-112

b6 -4
b7C -4

DA T. [redacted] came in
with a statement which I signed
when I stated I was
ready for me sign -

that night is pretty vague
They took me down to
~~11th & Sw St~~ at 11th &
State - & kept overnight,
went to Court next day.

other Det then took me back to older
room in cuffs - took cuffs off -
~~had~~

had it eaten -

was almost dark when
fully brought me some
raw chicken.

~~you not needed exam II
after assault marks~~

~~& sent to County jail~~

didn't sleep

no bathroom

[redacted]
day -

let go fit they next

b6 -4
b7C -4

5 41 pm

19cv-4048(FBI)-113

when first saw George
~~He~~ told him wanted
attorney & he said
~~He~~ was going to call me
no attorney - not to even
ask him about - He refused
to allow me to make phone call.

They had part of statement
to me - top part I read part to
me about what happened
He didn't read it. Brown.

Universal File Case Number 44A CG 78234-1A²

Field Office Acquiring Evidence

Serial # of Originating Document

Date Received 6/7/91

From

(Name of Contributor)

(Address of Contributor)

By

(Agent)

b6 -1
b7C -1

To Be Returned Yes No

Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to Rule 6 (e)

Federal Rules of Criminal Procedure

Yes No

Title:

Reference:

(Communication Enclosing Material)

Description: Original notes re interview of

COPY OF RETURN OF SERVICE SUBPOENA

United States District Court

NORTHERN

DISTRICT OF

ILLINOIS

TO:

SUBPOENA TO TESTIFY BEFORE GRAND JURY

b3 -1

SUBPOENA FOR:

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE Dirksen Federal Building
219 South Dearborn
Chicago, Illinois 60604

ROOM Grand Jury
Room 1625

DATE A

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

b3 -1

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

DATE

(BY) DEPUTY CLERK



This subpoena is issued upon application
of the United States of America

b3 -1

b6 -3

b7C -3

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Assistant United States Attorney
219 South Dearborn - 1500
Chicago, IL 60604 (312) 353-5354

RETURN OF SERVICE⁽¹⁾

RECEIVED BY SERVER	DATE	PLACE
SERVED	DATE	P
SERVED ON (NAME)		
		b3 -1 b6 -1,-5 b7C -1,-5

SERVED BY	TITLE
	<i>SPECIAL AGENT, FBI CHICAGO</i>

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER⁽²⁾

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on	Date	S.
		<i>219 SOUTH DEARBORN AVE CHICAGO, ILLINOIS 60604</i>
Address of Server		

ADDITIONAL INFORMATION

- (1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.
 (2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

Field File No. 444-CG 78234

Serial # of Originating Document _____

00 and File No. _____

Date Received 2/18/91

From _____ **NAME OR CONFERENCE** _____

Figure 1. A schematic diagram of the experimental setup. The left panel shows the optical system for the pump beam and the right panel shows the optical system for the probe beam.

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By **E**

To Be Returned Yes No Receipt Given Yes No

**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure**

Yes No

Title:

Reference: _____ (Communication Enclosing Material)

Description: ~~RE~~ Original notes re interview of

b6 -5
b7C -5

(1)

3rd

7/18/91
7/23/91
25
Ex 1c

[redacted] & [redacted]

ATTY1. ~~P.D.~~ #400

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

were interviewed at their place of bus.

[redacted]

Tel. [redacted]

(1)

[redacted]

revised atty's ↓ Public Defender [redacted]

represented defendant [redacted]

they were no ~~no~~ ATTY's who
in ~~the~~ 2 affects the research

civil rights case of [redacted]

PRO. MORT KELLY I am Date conveting, Cook County
Public defendant represented [redacted] in the Capital case
However, the civil rights stems from

[redacted]

which stems from the 1982 police killing of officers
FATHEY AND O'BRIEN.

Alleged violations of his Civil Rights

said he was arrested and tortured in order to obtain a
confession for these officers.

[redacted]

Public Def.

NOT THAT P.D.

in the Appellate b6 -5
b7C -5

division has discussed some of the appeal we've
had instances where his claims were also allegedly
tortured to obtain these their confessions. They have
given [redacted] a foot sheet containing over 40

cases of individuals who were arrested and allegedly

tortured by C-P-D officers, mainly by commandant Jon
Bruey or ~~commandant~~. C-P-D actions operated under his
~~second~~ Supervision.

(2)

movement
to normal
from copper sports

10/19 1973

From the first street

[redacted]

explained by [redacted]

b6 -2,-4,-5,-6
b7C -2,-4,-5,-6

1. [redacted] [redacted] [redacted] is currently
[redacted] location [redacted] - 10.

2. [redacted] were arrested in 1973
[redacted] currently incarcerated at
[redacted] 11.

3. [redacted] currently incarcerated at [redacted]
Dawville, NC

4. [redacted] currently incarcerated at [redacted], NC

5. [redacted] not [redacted]

6. [redacted] Arrests [redacted] LAST Known Location
and it is not known if he is in the "streets" [redacted] in Formation
[redacted] Atty and [redacted] [redacted] [redacted] [redacted] [redacted] [redacted]
[redacted] who represented [redacted] in the matter (represented)

7. [redacted] [redacted] not in any [redacted] time and
old tel # for [redacted] would they AND locate to

8. [redacted] was arrested w/ D T on
as suspect [redacted] t officers [redacted].

Both were tortured.

9. [redacted] to the Police HQ at 1111 and more
where they were [redacted]

[redacted] very when it was observed that [redacted]

was w/ the [redacted] example of days before
Mr. Phillips, he was placed in the protective custody
and [redacted] given [redacted]

19-cv-4048(FBI)-120

7. [redacted] by m stat. 10/19

quite ABT THE PURPOSE [REDACTED] EAST KNOWN LOCATION
WAS NEAR THE EAST ST LOUIS, IL AREA. [REDACTED] AND NOT
HE ~~WILL~~ ^{SHOULD} TRY TWO WERE THE TELEPHONE &
~~THE~~ ¹¹¹ METRIC.

12. [REDACTED] was arrested on [REDACTED]
[REDACTED] can be located [REDACTED]
[REDACTED] LC

The ATTY WHO REPRESENTS HIM IS [REDACTED]
~~THE~~ [REDACTED]

13. ~~ATTY~~ [REDACTED] 11/7 3382
A profit

13. [REDACTED] TO ALLEGEDLY [REDACTED] was b6 -2,-6
ALLEGEDLY ADVISED BY RUSH, HLR. b7C -2,-6
NOTWITHSTANDING THAT RUSH IS KNOWN
TO BE CORRECTLY

14. [REDACTED] was arrested on [REDACTED] was tortured
AT AREA 11 BY BURKE AND DIRECTIVE UNDER HIS COMMAND.
[REDACTED] AT [REDACTED] AND HE WAS CORRECTLY

14. [REDACTED] 11/7 MULTIPLE

15. [REDACTED] was arrested on [REDACTED] BY BURKE
AT AREA 11, THE ILL APPELLATE COURT
CONFESS TO THE CHARGE
was prepared AND

THE ILL APPELLATE COURT REVERSED HIS CONVICTION BECAUSE
THE VICTIM AND [REDACTED] WAS RELEASED.

Q

4

7177

18. [redacted] was arrested [redacted] by officers at [redacted] b6 -2,-6
and tortured. [redacted] File # [redacted] b7C -2,-6
and won a law suit against
the City of [redacted]

[redacted] [redacted] [redacted]
[redacted] is part [redacted] Co RA 16
[redacted]

19. [redacted] was arrested in Jan 1984 by [redacted] people
and tortured

In 1984 was [redacted] a process is
the [redacted] go to [redacted]

20. [redacted] was arrested on [redacted] by [redacted] people
and tortured

File # [redacted] + complaints and received a settlement
of [redacted]

~~Exhibit~~ [redacted] ~~Exhibit~~ to the most of the above
mentioned arrests filed some plaints w/ [redacted] or P-1
(OP) ~~Exhibit~~ & C-P-P

However when they support D.P.C. for arrestees
they only receive ^{the cover page} ~~single~~ pages w/ just the names
of the complainants.

for all records
of all complaints
filed against
arrestees by the D.P.C.
officers id recommends
b6 -4
b7C -4

①

b6 - 5
b7C - 5

[redacted] AOU NOT BY [redacted] ^{of Police} ~~fact~~ ^{complaint}
gestures often says; [redacted] upon agreement all files are
newspaper carried articles and lists the names of
individuals who were arrested during this time.

②

[redacted] ^{Challenging} ~~conviction~~

Any coerced confessions before Jan 1, 1986 AND
the suspects may have an appeal that conviction did
~~not meet~~

① Any coerced confessions against Suspects that may
have occurred before Jan 1, 1986, in which the
suspects Appeals the conviction and the Appeal process
was brought not less than the 5 year statute of limitations
requirements.

substantiated charges of
OIG's authority

C.

O-P-S

From sources at OPI

LERNER, ~~not independent~~ Ops investigator sent a report ^{by AMW} ~~to [redacted]~~ ^{BURG} JAD 1991

The ~~above~~ ^{first} only reports where charges are ^{substantiated} are sent
The report was sent back to the investigations
for clarification and correction.

sent
to [redacted]

in a FEB meeting w/ [redacted] ~~to [redacted]~~ ADVISEN PLO
that he had not seen the ^{corrected} report.

b6 -4
b7C -4

however [redacted] said " " sent to him

In late March [redacted] said he sent report back
to OPI and waiting for it to be returned
w/ necessary changes

~~was not informed before it was sent~~

Other source at OPI feel [redacted] in writing on report

about 6 weeks ago

not in

received

final report

getting instructions
from major Dally
Dally

1A3

Field File No. 44-78234

Serial # of Originating Document _____

OO and File No. _____

Date Received 3/12/92 / 3/24/92

From _____
(NAME OF CONTRIBUTOR)

b6 -1,-5
b7C -1,-5

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By _____
(NAME)

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure

Yes No

Title:

Reference: _____
(Communication Enclosing Material)

Description: Original notes re interview of _____

3/24/92

[redacted] ATTYS IL Public Defender's Office

b6 -2,-5,-6
b7C -2,-5,-6

Law to RANDOLPH

ATTYS for [redacted] OR for Zeal to send FBI
info re client DATE HARVEST testimony at hearing
All legal Proceedings

Springfield ATTYS
representing [redacted]

[redacted] of her, after representing + Client
Name [redacted] Alleged his confession was coerced
By TRA II Defectives

3/12/92

[redacted] ILL Public Defender's Office

STATE OF IL BLDG

100 W RAND ST CG IL 60601

[redacted]
b6 -2,-4,-5,-7
b7C -2,-4,-5,-7

Represents [redacted]

when ITSELF SUSPENDED

WARNING will send records to FBI
LAST YR.

[redacted] by TREC II Detectives [redacted]

no longer represent [redacted] will contact current attorney
before them contact FBI

[redacted] At [redacted]

[redacted] At [redacted]

FD-340b (Rev. 4-2-86)

104

Field File No. 44A (6) 78234

Serial # of Originating Document _____

OO and File No. _____

Date Received 3/2/92

From _____

(NAME OF CONTRIBUTOR)

b6 -1,-5

*b7C -1,-5

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By _____

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to

Rule 6(e), Federal Rules of Criminal Procedure

Yes No

Title:

Reference: _____

(Communications Enclosing Material)

Description: Original notes re interview of _____

372/92

[redacted]
b6 -2,-4,-5
b7C -2,-4,-5

[redacted] [redacted] [redacted] [redacted]
Want to talk to FBI

Supv [redacted]

Possible coerced confession 1982

GANG Leader 1985

WANTED TO TESTIFY AT BURGE HEARING NOT ALLOWED

ATTY [redacted]
[redacted] [redacted]

b3 -2

b6 -2,-6

b7C -2,-6

Douglas [redacted]

Sent Pictures to People Lawyer

CARE OF [redacted] FIRST HEARING [redacted]

more striking won't keep meetings

[redacted]

IAS

Field File No. 94A CG 78234**Serial # of Originating Document** _____**OO and File No.** _____**Date Received** 11/14/91**From** _____

(ADDRESS OF CONTRIBUTOR)

(NAME AND ADDRESS)

By _____**To Be Returned** Yes No **Receipt Given** Yes No**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure** Yes No**Title:**b3 -1
b6 -1,-5
b7C -1,-5**Reference:** _____
(Communication Enclosing Material)**Description:** Original notes re Interview of _____

RETURN of Service Subpoena

United States District Court

NORTHERN

DISTRICT OF

ILLINOIS - EASTERN DIVISION

TO:

SUBPOENA TO TESTIFY BEFORE GRAND JURY

b3 -1

SUBPOENA FOR:

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	DIRKSEN FEDERAL BUILDING 219 South Dearborn Street Chicago, Illinois 60604	ROOM	GRAND JURY Room 1625
		DATE AND TIME	

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

[Large empty box for documents]

b3 -1

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

(BY) DEPUTY CLERK

DATE

[Small empty box for date]

b3 -1
b6 -3
b7C -3

This subpoena is issued upon application
of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Assistant United States Attorney
219 S. Dearborn, Room 1500
Chicago, IL 60604 (312) 353-1416

RETURN OF SERVICE⁽¹⁾

RECEIVED BY SERVER	DATE <input type="text"/>	PLACE <input type="text"/>
SERVED	DATE <input type="text"/>	PLACE <input type="text"/>
SERVED ON (NAME) <input type="text"/>		
		b3 -1 b6 -1,-5 b7C -1,-5
SERVED BY <input type="text"/>		TITLE SPECIAL AGENT, FBI
STATEMENT OF SERVICE FEES		
TRAVEL	SERVICES	TOTAL
DECLARATION OF SERVER⁽²⁾		
<p>I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.</p> <p>Executed on <input type="text"/> Date <input type="text"/> <i>[Signature]</i></p> <p style="text-align: center;">219 South Dearborn Ave. <u>Chicago, Illinois 60604</u> Address of Server</p>		
ADDITIONAL INFORMATION		

⁽¹⁾ As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

⁽²⁾ "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

1A6

Field File No. 94-A-C-G 78234

Serial # of Originating Document _____

OO and File No. _____

Date Received _____

From _____

(NAME OF CONTRIBUTOR)

CPD - Legal

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By 11/13/91

(NAME OF SPECIAL AGENT)

To Be Returned Yes No Receipt Given Yes NoGrand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure Yes No

Title:

b6 -4,-5

b7C -4,-5

Reference: _____

(Communication Enclosing Material)

Description: Original notes re interview of _____

11/13/91



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

see Counsel CPO
etc & Supt [redacted]

11/12/91 formal charges by OPS on [redacted] [redacted]

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

by Police Board w/i 30 days after charges

~~etc marks~~ of ~~etc~~ trial Hearing officer or Judge
Board members as Jury

STATUS CALL Discovery phase short most of evidence
presented in criminal court proceedings

suspended w/o pay 30 days 11/8/91

since charges filed by OPS they will monitor hearings

FD-340D (Rev. 4-2-85)

1A7

Field File No. 444 CG 78234

Serial # of Originating Document _____

00 and File No. _____

Date Received 2/4/92

From **NAME OR COMPANY NAME**

NAME OF CONTRIBUTOR

b6 -1,-5
b7C -1,-5

By _____

**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure**

□ Yes □ No

Thái

Reference: _____
(Communication Enclosing Material)

Description:  Original notes re interview of

2/4/92

[redacted]

[redacted]

b6 -5
b7C -5

her group has received complaints of coerced confessions
from OIO /PIO wpt committee

[redacted]

b3 -2
b6 -2
b7C -2

hearings in 12/91

will recontact [redacted] for contact w/ FBI

will check for other confessions

filed complaint on behalf of

[redacted] by SA BURGE 2/12/82

b6 -2
b7C -2

[redacted]
People Law Office

hearing set for 2/10/92

MOST complaints from People Law Office

1A 8

Field File No. 44-A CG 78234**Serial # of Originating Document** _____**OO and File No.** _____**Date Received** 11/18/91**From** _____

(ADDRESS OF CONTRIBUTOR)

b6 -1,-4

b7C -1,-4

By _____**To Be Returned** Yes No **Receipt Given** Yes No**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure** Yes No**Title:****Reference:** _____
(Communication Enclosing Material)**Description:** Original notes re interview of

11/18/91



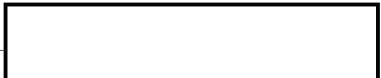
OPS



b6 -4

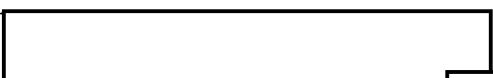
b7C -4

TMKed re Next Script



& monitor investigation re Action by Police Board.

Disseminate to FBI



b6 -4

b7C -4

ie



Bureau Atty file request for special prosecutor
for City

1A9

Field File No. 4494 CG 78234**Serial # of Originating Document** _____**OO and File No.** _____**Date Received** 7/2/91**From** _____

(ADDRESS OF CONTRIBUTOR)

b6 -1,-5

b7C -1,-5

By _____**To Be Returned** **Yes** **No Receipt Given** **Yes** **No****Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure** **Yes** **No****Title:****Reference:** _____

(Communication Enclosing Material)

Description: **Original notes re interview of**

7/2/91

[redacted]

[redacted]

[redacted]

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

ATTY

[redacted]

, outgrowth of [redacted] case

interview by LT Burge at TRAIL

many complaints lodged against Burge
only 5% w/ merit

OPS reopening some cases

AMINISTY INTRODUCTION

[redacted]

[redacted]

ATTY

Reopened case on Burge 7/2/91
not w/ FIRM any more

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

[redacted] TESTIMONY AT SUPPRESSION HEARING TO STAMP MOTION

AS VICT. IN [redacted] CASE

TYPE WRITER COVER OVER LEGS

RUSSIAN ROULETTE

RACIAL overtones

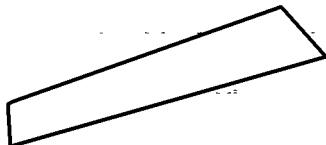
AT TRIAL word of suspect against Burge

Judge refused to grant suppression motion

Burge A VET. on of his TROOPS to get confessions
from PRISONERS

early 1970

People vs Banks - 12 Appellate court
rejects evidence of BRUTALITY
injury not consistent w/ testimony of SPD
Defense could not introduce prior
acts of misconduct on part of SPD



b6 -6
b7C -6

Peoples ATTY compiled a 'Fact sheet' over 30 cases
involving defendants who claimed abuse by super
~~iors~~ and subordinates.

Some still incarcerated

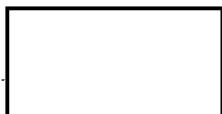
1A 10

Field File No. 44A CG 78234**Serial # of Originating Document** _____**OO and File No.** _____**Date Received** 7/18/91**From** _____
NAME OF DOCUMENT SOURCE
_____b6 -1,-5
b7C -1,-5

(CITY AND STATE)

By _____**To Be Returned** Yes No Receipt Given Yes No**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure**
 Yes No**Title:** _____**Reference:** _____
(Communication Enclosing Material)**Description:** Original notes re Interview of _____

former
pet



AT&T

working
model

BURG
SAME FURTHER
in CASE

CPAC fourth TALKED AT
evidence surprises
in street Kolo

CPD keeps auto files

b6 -4
b7C -4

might come give intro
on who def. to talk to

"READIN' ARTICLE"

FBI

b6 -4
b7C -4

former
STATE ~~ATT~~
ATTY

fourth statement

from

b6 -2,-4,-6
b7C -2,-4,-6

from LETTERS Ans from

Complaints filed only from single page
~~subpoena~~ All OJS records All complaints
trying to apprehend official factory
or prison

b7
union
agreement → files grievances after 5 yr
Name
List of names abt 25 only catch sheet

→ SD Defender News Paper List of names

10.



b6 -2
b7C -2

had been id as



BIG over load

Mother's
~~Attorney's~~ phone #

near EAST ST Louis area

got money from some city
protection factory money

b6 -2,-6
b7C -2,-6

widely identified with he was w/

& material seized

a couple
days
before
electrifying

10. 1



in Ponto.

b6 -4
b7C -4

KL

IN CASE

for more

info

money

19-cv-4048(FBI)-145

13

[redacted]

Associated w A.W.

b6 -2
b7C -2

14 [redacted] gave depositions only A.W.

nearby A.W. screaming

W 115 m

ADDRESS

14.

[redacted]
[redacted]

ATTY

b6 -2,-6
b7C -2,-6

Take depositions

CASE

border

INFO

FBI

poling done

No surrendered it 21

17.

[redacted]

ATY to file + care for him

b6 -2
b7C -2

charge reverse because of what

18. Oct

ASST

[redacted]

involved in lot on

[redacted] filed a claim suit got money

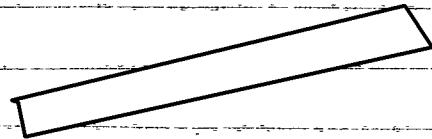
Public Defender
ATTY

AT

[redacted]

19-cv-4048(FBI)-146

19.

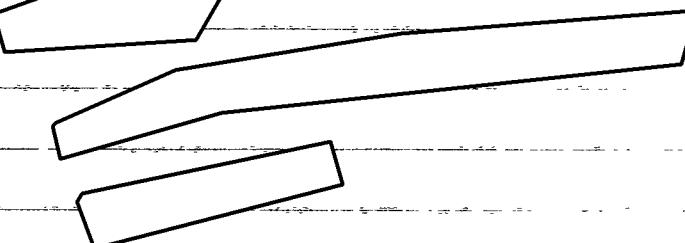


b6 -2,-6

b7C -2,-6



ATTY



20.



Reported

b6 -2

b7C -2

got settlement indicate

6/09/2018

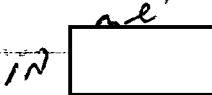
in the Applegate Div of Public Defender

All P.D. cases

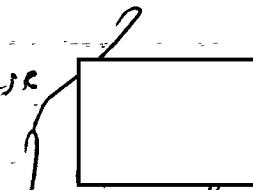
~~all~~

Smts
ATTY

modven



case



medical examiner

area 4

ATTY

b6 -2,-6

b7C -2,-6

19-cv-4048(FBI)-147

5-0-2

substantive charges of
pretrial publicity

from sources at OPS) (b)(7)(E)
Leahner, [REDACTED] OPS investigator sent a report BURGE
to [REDACTED] in JSD 1991
only reports where charges are substantiated
One report was sent back to investigations
for clarification and correction
[REDACTED] b6 -4
[REDACTED] b7C -4
sent to [REDACTED]

in Feb. Meeting w/ [REDACTED] he advised PLO
that he had not seen report
[REDACTED] said "it" was sent or has

late March [REDACTED] said he sent report back
to OPS and waiting for it to be returned b6 -4
w/ necessary changes b7C -4
was NOT interviewed BURGE in report

other source at OPS feel [REDACTED] in setting on report
getting information from major party
Daley

[REDACTED]
RECEIVED
FINAL REPORT

Field File No.

44A CG 78234

Serial # of Originating Document

OO and File No.

Date Received

From

(Name of Contributor)

(Address of Contributor)

b6 -1,-5

b7C -1, -5

(City and State)

54

Special Agent)

To Be Returned Yes No Receipt Given Yes No

**Grand Jury Material - Disseminate Only Pursuant to Rule 6(e), Federal Rules
of Criminal Procedure** Yes No

Title:

Reference:

(Communication Enclosing Material)

Description: Original notes re interview of

LETTER TO SUPERINTENDENT

DATED 10/17/91

b6 -4
b7C -4

LAW OFFICE

1180 N. Milwaukee
Chicago, Illinois 60622
(312) 235-0070
Fax (312) 235-6699

b6 -5,-6
b7C -5,-6

October 17, 1991

Superintendent [REDACTED]
1121 S. State
Chicago, IL 60605

b6 -4
b7C -4

Dear Superintendent [REDACTED]

We have today learned from a source within the police department who has previously proven to be reliable that Commander Jon Burge has recently made public threats to "blow the People's Law Office away with a shotgun" if anything happens to him as a result of the O.P.S. investigation into allegations of torture by him. This alleged threat was reported to someone in a command position within the Department who indicated he took the charge seriously.

We have also independently learned that the O.P.S. report recommending that Burge be taken before the police board for discipline has recently been forwarded by you to the Corporation Counsel's office for prosecution. This development, together with our ongoing conflict with Burge in various cases where he is alleged to have tortured our clients, our role in pressing and aiding the O.P.S. investigation and publicly testifying against him at public hearings, our most recent filing of another suit alleging torture by Burge and his men, and our knowledge of Burge's alleged violent propensities, as documented in sworn testimony by numerous victims and by previous reliable letters from an anonymous associate of Burge's, leads us to take the report of this threat very seriously.

We urge you to take immediate action in this matter, to inform us of what you are doing to investigate this alleged threat, and to prevent future violence by Jon Burge.

Sincerely yours,



b6 -5
b7C -5

Attorneys at Law
for the People's Law Office

GFT/mg
cc: Corporation Counsel

IA 12

Field File No. 44A-CB 78234**Serial # of Originating Document** _____**OO and File No.** _____**Date Received** 7/15/91**From** _____

(Name of Contributor)

b6 -1,-5

PEOPLES LAW OFFICE

b7C -1,-5

(Address of Contributor)

By _____

(Agent)

To Be Returned Yes No **Receipt Given** Yes No**Grand Jury Material - Disseminate Only Pursuant to Rule 6(e), Federal Rules
of Criminal Procedure** Yes No**Title:** _____**Reference:** _____
(Communication Enclosing Material)**Description:** Original notes re Interview of _____

7/15/91

[redacted] Peoples Law Office

1180 N. Milwaukee Ave
by 60622

b6 -5
b7C -5

Middle of [redacted] mail 2/89
Anonymous letters police paper
A PATTERN OF coerced confessions by torture b6 -2
in BURGE others in his COMMAND b7C -2
check w/ [redacted] in Cook county Jail
for more info

400 plus cases

30 ~~letters~~ to BURGE
Directly

2-3 To organize material

fact sheet over 60

1A¹³

Field File No. 44A-CG78234

Serial # of Originating Document _____

00 and File No. _____

Date Received 3/2/92

From _____

FORM OF CONTRIBUTION

b6 -1,-5

b7C -1,-5

By [REDACTED]

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to Grand Jury Order

**Grand Jury Material
Rule 6(e), Federal Rules of Evidence**

10

Reference: Communication Engineering Materials

Description: Original notes re interview of

3/2/92

[REDACTED] [REDACTED]
[REDACTED] INMATE [REDACTED]

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

Supt. [REDACTED] [REDACTED]

Alleged Coercion con freedom in 1986

1100 S. State Police station

ARRESTED [REDACTED]

civic rights violated BETTER

WANTED TO TESTIFY AT CURRENT Jon Burge Police BOARD HEARING

ATFU

det [REDACTED]

b6 -2,-5,-6
b7C -2,-5,-6
b3 -2

[REDACTED] [REDACTED] victim Alleged police BRUTALITY

Possible [REDACTED]

1A14

Field File No. 44A-CG-78234**Serial # of Originating Document** _____**OO and File No.** Chicago**Date Received** 2/27/92**From** _____
(NAME OF CONTRIBUTOR)(ADDRESS OF CONTRIBUTOR)**By** _____
(NAME OF OFFICE RECEIVING)b6 -1
b7C -1**To Be Returned** Yes No **Receipt Given** Yes No**Grand Jury Material - Disseminate Only Pursuant to Rule 6(e), Federal Rules of Criminal Procedure** Yes No**Title:****Reference:** _____
(Communication Enclosing Material)**Description:** Original notes re interview of _____

Return of Service of
Grand Jury Subpeona

United States District Court
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

TO: [Redacted]

b3 -1

SUBPOENA TO TESTIFY
BEFORE GRAND JURY

SUBPOENA FOR: [Redacted]

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE	DIRKSEN FEDERAL BUILDING 219 South Dearborn Street Chicago, Illinois 60604	ROOM	GRAND JURY Room 1625
		DATE AND TIME	[Redacted]

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

[Large Redacted Area]

b3 -1

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK	DATE
(BY) DEPUTY CLERK	[Redacted]
<i>Karen Springer</i>	b3 -1 b6 -3 b7C -3

This subpoena is issued upon application
of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Assistant United States Attorney
219 S. Dearborn, Room 1500
Chicago, IL 60604 (312) 353-1416

*If not applicable, enter "none."

To be used in lieu of AO110

FORM 080-227
JAN 86

19-cv-4048(FBI)-157

RETURN OF SERVICE⁽¹⁾

RECEIVED BY SERVER	DATE <input type="text"/>	PLACE <input type="text"/>
SERVED	DATE <input type="text"/>	PLACE <input type="text"/>

SERVED ON (NAME)

b3 -1
b6 -1,-5
b7C -1,-5

SERVED BY <input type="text"/>	TITLE Special Agent, FBI Chicago
-----------------------------------	-------------------------------------

STATEMENT OF SERVICE FEES

TRAVEL <input type="text"/>	SERVICES <input type="text"/>	TOTAL <input type="text"/>
--------------------------------	----------------------------------	-------------------------------

DECLARATION OF SERVER⁽²⁾

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on Date
 Signature of Server
219 S. Dearborn Ave.
Chicago IL 60604
 Address of Server

ADDITIONAL INFORMATION

(1) As to who may serve a subpoena and manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c) Federal Rules of Civil Procedure.

(2) "Fees and mileage need not be paid by the server if he is a witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure, Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1625, Rule 17(b) Federal Rules of Criminal Procedure)".

FD-3400 (Rev. 4-2-85)

Field File No. 44A-CG 78234

Serial # of Originating Document

OO and File No.

Date Received 3/30/92

From

(NAME OF CONTRIBUTOR)

IL Appellate Defender CFC

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure

Yes No

Title:

Reference:
(Communication Enclosing Material)

Description: Original notes re Interview of

b6 -1,-5

b7C -1,-5

[redacted] ATTY
STATE APPELLATE DEFENDER etc
STATE, c/o CENTRAL FIRST JUDICIAL DIST.
100 W RANDOLPH ST [redacted] 5-500

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

[redacted]
[redacted] Agent II [redacted] Detective [redacted]

"Bagged BEATEN"

involuntary confession illegal arrest
lost appeal not enough physical evidence
his word against P.Officers

[redacted] facilitated simultaneous pattern of house
bag Beating

b6 -2
b7C -2

[redacted] medical evidence conviction reversed

forward copy of brief/argument re FBI

Field File No. 44A-TG-78234
Serial # of Originating Document _____
DO and File No. _____
Date Received 6/12/92
From _____

b3 -1
b6 -1,-5
b7C -1,-5

To Be Returned Yes No Receipt Given Yes No

**Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure**

1

Reference: _____ (Communication Enclosing Material)

Description: Original notes re interview of

COPY OF RETURN OF SERVICE

SUBPOENA FOR

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

United States District Court
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

TO: [Redacted]

**SUBPOENA TO TESTIFY
BEFORE GRAND JURY**

SUBPOENA FOR: [Redacted]

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

b3 -1

PLACE	ROOM
DIRKSEN FEDERAL BUILDING 219 South Dearborn Street Chicago, Illinois 60604	GRAND JURY Room 1625
DATE AND TIME	
[Redacted]	

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

[Large redacted area]

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

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

DATE

(BY DEPUTY CLERK)

Daniel J. Bocchieri
This subpoena is issued upon application
of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Assistant United States Attorney
219 S. Dearborn, Room 1500
Chicago, IL 60604 (312) 353-1416

b3 -1
b6 -3
b7C -3

*If not applicable, enter "none."

To be used in lieu of AO110

FORM 08D-227

JAN. 86

19-cv-4048(FBI)-162

RETURN OF SERVICE⁽¹⁾

RECEIVED BY SERVER	DATE <input type="text"/>	PLACE: <input type="text"/>	b3 -1 b6 -1,-5
SERVED	DATE: <input type="text"/>	PLACE: <input type="text"/>	b7C -1,-5
SERVED ON (NAME) <input type="text"/>			
SERVED BY	TITLE: <i>SPECIAL AGENT, FBI, CHICAGO</i>		

STATEMENT OF SERVICE FEES

TRAVEL	SERVICES	TOTAL

DECLARATION OF SERVER⁽²⁾

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on

Date

Signature of Server

219 SOUTH DEARBORN STREET, CHICAGO, IL 60604
Address of Server

ADDITIONAL INFORMATION

(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

(2) "Fees and mileage need not be paid by the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure, Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)".

Field File No. 424-CG-78234

Serial # of Originating Document _____

OO and File No. _____

Date Received 7/24/92

From [Redacted] (NAME OF CONTRIBUTOR)

Cook County Public

(ADDRESS OF CONTRIBUTOR)

Defender office

(CITY AND STATE)

By [Redacted]

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to

Rule 6(e), Federal Rules of Criminal Procedure

Yes No

Title: _____

Reference: [Redacted] (Communication Enclosing Material)

Description: Original notes re interview of _____

b6 -1,-5

b7C -1,-5

7/24/92

[REDACTED]

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

offering proofs why signed statement should be suppressed
CPD violated his rights [REDACTED]

[REDACTED]
b3 -2

cannot . stated Reversal before in complaint
show what interest go before presiding judge Sophia FFATH
to get court records will have all motions

4/30/92 scheduled hearing date of 4/1 (TRAC) ready
will proceed w/ TRAC

[REDACTED] for abuse

b3 -2
b6 -2,-6
b7C -2,-6

Believes [REDACTED]

show signs of CPD torture

request FBI not to interview her Client until state court
over will then make available all other victims

FD-340b (Rev. 4-2-85)

Field File No. 44-KC-78234

Serial # of Originating Document _____

OO and File No. _____

Date Received 8/11/90

From AUSA _____
(NAME OF CONTRIBUTOR)

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

(ADDRESS OF CONTRIBUTOR)

(CITY AND STATE)

By _____

To Be Returned Yes No Receipt Given Yes No

Grand Jury Material - Disseminate Only Pursuant to
Rule 6(e), Federal Rules of Criminal Procedure

Yes No

Title:

Reference: _____
(Communication Enclosing Material)

Description: Original notes re Interview of _____

RETURN OF SERVICE GJ SUBPOENA

United States District Court
NORTHERN DISTRICT OF ILLINOIS - EASTERN DIVISION

TO: [Redacted]

b3 -1

SUBPOENA TO TESTIFY
BEFORE GRAND JURY

SUBPOENA FOR: [Redacted]

YOU ARE HEREBY COMMANDED to appear and testify before the Grand Jury of the United States District Court at the place, date, and time specified below.

PLACE

DIRKSEN FEDERAL BUILDING
219 South Dearborn Street
Chicago, Illinois 60604

ROOM

GRAND JURY
Room 1625

DATE AND TIME

YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s):*

Please see additional information on reverse

This subpoena shall remain in effect until you are granted leave to depart by the court or by an officer acting on behalf of the court.

CLERK

DATE

(BY) DEPUTY CLERK

Daniel L. Blough

This subpoena is issued upon application
of the United States of America

NAME, ADDRESS AND PHONE NUMBER OF ASSISTANT U.S. ATTORNEY

Assistant United States Attorney
219 S. Dearborn, Room 1500
Chicago, IL 60604 (312) 353-1416

b3 -1
b6 -2
b7C -2

Subpoena to Testify
Before Grand Jury

11 AUG 22 14

b3 -1
b6 -3
b7C -3

RETURN OF SERVICE⁽¹⁾

RECEIVED BY SERVER	DATE [Redacted]	PLACE [Redacted]	b3 -1 b6 -1,-5 b7C -1,-5
SERVED	DATE [Redacted]	PLACE [Redacted]	
SERVED ON (NAME)			
SERVED BY	TITLE SPECIAL AGENT, FBI CHICAGO		
STATEMENT OF SERVICE FEES			
TRAVEL	SERVICES	TOTAL	

DECLARATION OF SERVER⁽²⁾

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Return of Service and Statement of Service Fees is true and correct.

Executed on [Redacted]

Date

[Redacted]
S/214 SOUTH DEARBORN AVE.
CHICAGO, ILLINOIS 60604

Address of Server

ADDITIONAL INFORMATION

(1) As to who may serve a subpoena and the manner of its service see Rule 17(d), Federal Rules of Criminal Procedure, or Rule 45(c), Federal Rules of Civil Procedure.

(2) "Fees and mileage need not be tendered to the witness upon service of a subpoena issued on behalf of the United States or an officer or agency thereof (Rule 45(c), Federal Rules of Civil Procedure; Rule 17(d), Federal Rules of Criminal Procedure) or on behalf of certain indigent parties and criminal defendants who are unable to pay such costs (28 USC 1825, Rule 17(b) Federal Rules of Criminal Procedure)"

Task Force to Confront Police Violence
P.O. Box 478783
Chicago, IL 60647
312/235-0070

October 3, 1990

Fred Foreman
United States Attorney
219 S. Dearborn #1500
Chicago, IL 60604

HAND DELIVERED

Judie's
Search &
Done

Dear Mr. Foreman,

We have previously submitted to your office information regarding incidents of torture committed by the detectives at Chicago Area II under the direction, and with the participation of Lt. Jon Burge.^{5/25/85} The previous response was that the incidents had occurred more than five years ago, and that therefore your office was unable and unwilling to conduct an investigation of the situation because of the statute of limitations. In turn, we submit additional information regarding an incident of torture at Area II that occurred within the five year period.

The attached transcript indicates the following: On [REDACTED] was brought to Area II from the 7th Police District at the request of Lt. Jon Burge who was seeking [REDACTED] cooperation in the investigation of [REDACTED]. [REDACTED] was at the 7th Police District on a separate charge. The [REDACTED] in which [REDACTED] was implicated occurred in July of 1985. Lt. Burge did not have a warrant for his arrest when he ordered [REDACTED] to his office in October of 1985.

b6 -2
b7C -2

Upon his arrival at Area II, [REDACTED] was placed in a very small room. Lt. Burge entered the room and cuffed both his hands tightly to the wall behind him where there was a ring placed for such purposes. After being questioned on and off for some time, [REDACTED] was brought to Lt. Burge's office. He was not cuffed at that time. The torture inflicted on [REDACTED] included suffocation with the typewriter cover and Russian Roulette. Lt. Burge put a gun to [REDACTED] head and pulled the trigger slowly and deliberately three times. When Lt. Burge concluded his torture, he threatened [REDACTED] not tell anyone, saying: "nobody will believe you because there's no marks on you." (Tr. p. 60 par. 18-20)

b6 -2
b7C -2

FOIMS OSSS PG
MANUAL OSSS PQ

1

44A-CG-78234-1X1

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 16 1990	
FBI - CHICAGO	

5A

b6 -1
b7C -1

b6, b7c, b7d
b6, b7c, b7d
b6, b7c, b7d
b6, b7c, b7d

COMPLAINT: 1990

1985 Conduct

V:

TORTURE BY SOURCE

b6 -2
b7c -2

19-cv-4048(FBI)-170

You will recall that strikingly similar techniques were reported by other of Jon Burge's victims. Other forms of torture have included the use of electric shock, beating on the bottoms of feet and genitals and racially motivated verbal abuse and death threats. Lawyers for one of the victims, [redacted] have documented more than twenty-five examples of torture of non-white citizens by Chicago police from 1972 to the present, with Burge being involved in the majority of them. A former police associate of Burge's has confirmed the details of Burge's practice of torture in four separate anonymous letters to these attorneys, while [redacted] an international expert on torture, has determined that the victim's descriptions and injuries are consistent with torture. Nonetheless, Burge has not received any discipline whatsoever, in fact, he has been promoted to Police Commander. It is therefore imperative that the incidents herein be thoroughly investigated with regard to criminal prosecution.

b6 -2,-6
b7C -2,-6

[redacted] remains ready to cooperate and can be contacted through his attorney [redacted]

b6 -2,-6
b7C -2,-6

We look forward to your response.

[redacted]
Task Force to Confront
Police Violence

AIRTEL

TO: DIRECTOR, FBI
 Attn: Criminal Investigative Division
 Civil Rights Unit

FROM: SAC, CHICAGO (44A-CG-78234) (R) (SQUAD 12)

DATE

10/26/90

1. Title: (use additional page if necessary)

COMMANDER JOHN BURGE
 CHICAGO POLICE DEPARTMENT
 CHICAGO ILLINOIS
 [REDACTED] VICTIM

b6 -2
b7C -2

Re:

2. Office of Origin File No: _____ (include alpha)
 3. Auxiliary Office File No: _____ (initial submission only)
 4. initial submission _____ supplemental submission
 5. Matter Type: (check more than one if applicable)

- | | | | |
|---|---|--------------------------------|--|
| A. Brutality | No Brutality | | |
| <input checked="" type="checkbox"/> Law Enforcement | <input type="checkbox"/> Law Enforcement | | |
| <input type="checkbox"/> Non-Law Enforcement | <input type="checkbox"/> Non-Law Enforcement | | |
| B. Violence | <input type="checkbox"/> Religious <input type="checkbox"/> Other | | |
| <input type="checkbox"/> Racial | <input type="checkbox"/> Religious | <input type="checkbox"/> Other | |
| C. ISS Matters | <input type="checkbox"/> Other | | |
| <input type="checkbox"/> Migrant Victim | <input type="checkbox"/> Other | | |
| D. Known/Suspected Extremist Group | <input type="checkbox"/> Other _____ | | |
| <input type="checkbox"/> Klan | <input type="checkbox"/> Other | | |

Use to describe above (check all applicable)

- Arson Injury Property damage
 Death No injury Cross burning

6. Date of incident 10/30/85 7. Date of complaint 10/16/90

8. Synopsis of case:

TASK FORCE TO CONFRONT POLICE VIOLENCE ALLEGED VIA LETTER
 THAT VICTIM WAS SUFFOCATED WITH A TYPEWRITER COVER AND HAD
 A GUN HELD TO HIS HEAD, UNTIL HE CONFESSED TO ARMED ROBBERY.

9. Significant case Yes No (if yes, provide reason) 44A-CG-78234-2

Remarks/Administrative

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 26 1990	
FBI - CHICAGO	
SA	RWA

b6 -1
b7C -1

2 - Bureau
 1 - Chicago
 RWH:rcb
 (3)

FBI

TRANSMIT VIA:

- Teletype
 Facsimile
 AIRTEL

PRECEDENCE:

- Immediate
 Priority
 Routine

CLASSIFICATION:

- TOP SECRET
 SECRET
 CONFIDENTIAL
 UNCLAS E F T O
 UNCLAS

Date 10/31/90

1 TO : SAC, CHICAGO (44A-CG-78234) (SQ. 12)
 2 FROM : SAC, SPRINGFIELD (44A-CG-78234) (RUC)
 3 SUBJECT : Commander JOHN BURGE,
 CHICAGO, ILLINOIS POLICE DEPARTMENT;
 4 [REDACTED] - VICTIM

5 CR
 6 OO: CG

b6 -2
 b7C -2

7 Re CG airtel to SI, 10/24/90.

8 Enclosed for Chicago are two copies of an FD-302
 concerning the interview of victim, [REDACTED] conducted
 9 at the [REDACTED] ILLINOIS DEPARTMENT OF
 10 CORRECTIONS, [REDACTED] Illinois, on 10/29/90, by SA [REDACTED]

b6 -1,-2
 b7C -1,-2

11 For information, [REDACTED] attorney, [REDACTED]
 COOK COUNTY PUBLIC DEFENDER'S OFFICE, was telephonically
 12 contacted on the morning of 10/29/90, at which time he
 insisted upon being present during the interview of [REDACTED] in
 13 this matter. Arrangements were made to meet [REDACTED] at the
 14 [REDACTED] at 4:00 PM on 10/29/90, and he
 did in fact appear to be present at the interview, along with
 15 another attorney from the COOK COUNTY PUBLIC DEFENDER'S
 OFFICE, [REDACTED]

b6 -2,-5,-6
 b7C -2,-5,-6

17 2 - Chicago (44A-CG-78234) (Enc. 2) *Se*
 18 1 - Springfield (44A-CG-78234)

JGC/nle
 19 (3)

21 1*

44A-CG-78234-3

Approved: _____

Transmitted

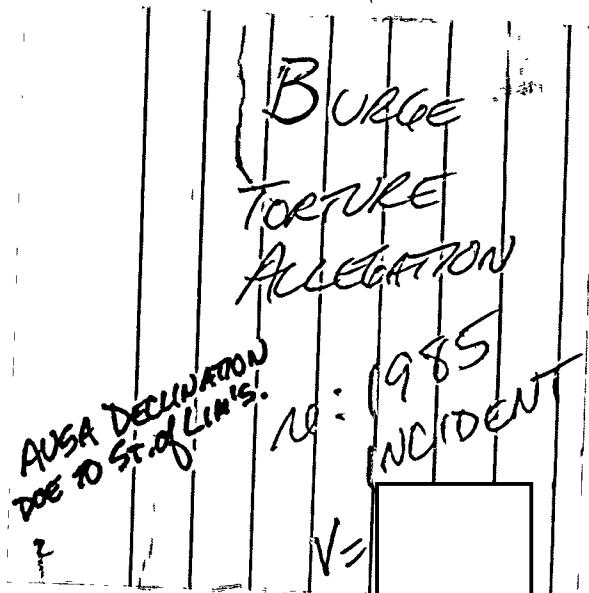
(Number) (Time)

Per

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 30 1990 FBI - CHICAGO	
19-CV-4048(FBI)-173	

44A-CG-78234-3A

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 05 1990	
FBI - CHICAGO	
IC	



b6 -2
b7C -2

19-cv-4048(FBI)-174

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 10/31/90

[redacted] date of birth (DOB) [redacted]
 was contacted at the [redacted] ILLINOIS b6 -1,-2,-6
 DEPARTMENT OF CORRECTIONS [redacted] Illinois. He was advised b7C -1,-2,-6
 of the official identity of Special Agent (SA) [redacted] and
 that the interview was being conducted pursuant to his allegation
 that his civil rights had been violated by Commander JOHN BURGE
 of the CHICAGO, ILLINOIS POLICE DEPARTMENT, on October 30 and 31,
 1985. [redacted] was advised that any information he furnished could
 be used in a court of law. Also present during this interview
 were [redacted] both attorneys
 representing [redacted] from the COOK COUNTY PUBLIC DEFENDER'S
 OFFICE, 200 West Adams Street, Chicago, telephone number [redacted]
 [redacted] provided the following information:

On [redacted] he left his [redacted]
 [redacted] at about 5:30 PM to 6:00 PM, in his car. He
 stopped by a [redacted] (last name unknown) (LNU), at
 an unknown address, approximately one block off of [redacted] He
 left [redacted] house and was going to drop [redacted]
 and [redacted] As he turned on to [redacted]

[redacted] he was stopped by two plain clothes Chicago police
 officers. Both of these officers were white males and he did not
 know their names. One of them told [redacted] they were stopping him
 for a "routine check" and asked about [redacted] told the
 officer he did not know what he was talking about and then one of
 the officers asked [redacted] to open the trunk of the car, which he
 did. The officer looked through the trunk and did not find
 anything. While [redacted] was talking to one officer, the other
 looked through the interior of the car, without [redacted]
 permission. This officer found [redacted]

[redacted] and when he opened it, found [redacted]
 [redacted] There were also some of [redacted]
 [redacted] At this point [redacted] was told
 he was under arrest, but was not told what he was being charged
 with. He was handcuffed and taken in a "paddy wagon" to the
 police station on [redacted] believed to be the 7th District, by
 two uniformed officers, names unknown. [redacted]
 [redacted] had left the scene where he was stopped to walk back to
 their home. He arrived at the 7th District station at about 7:00

b6 -1,-2,-6
b7C -1,-2,-6b6 -2,-6
b7C -2,-6Investigation on 10/29/90 at Centralia, Illinois File # SI 44A-CG-78234by SA [redacted] /nle Date dictated 10/30/90b6 -1
b7C -1

SI

44A-CG-78234

Continuation of FD-302 of [redacted]

DOB [redacted]

10/29/90

, Page 2

b6 -2
b7C -2

PM, and was placed in a room where there were two plain clothes officers sitting at their desks. His hands were still handcuffed behind him with the same handcuffs put on him by the officers who stopped him. One of the officers at the desks was black and the other white, names unknown. [redacted] asked one of them what he was being charged with and the officer said he did not know. The black officer then made a telephone call and when he hung up, told [redacted] that he was going to be taken to the Area II police station on 111th Street. The officer did not say who he had called. Neither of these officers gave [redacted] any problems. He was in this room for approximately 30-45 minutes, when two uniformed officers, both white males, names unknown, came to get him and they transported him in a "paddy wagon" to the Area II station. He was still in the same handcuffs. Upon arrival at the Area II station, they took him upstairs to the detectives section and put him in a small room with a steel bench attached to one wall. They took the handcuffs and left him alone in the room, which had no windows, but did have a "peep-hole" in the door. It was after dark when [redacted] got to the Area II station.

b6 -2
b7C -2

[redacted] had been in this room for about 15 minutes, when an individual, he later determined was Commander BURGE, came in. BURGE is a white male in his late 40's at that time, 5'10"-6' tall, 230-240 pounds. BURGE said, "You're a big fellow," and asked [redacted] what he could tell him about [redacted] which had occurred several months earlier. [redacted] told BURGE he did not know what BURGE was talking about. At this point, he was sitting on the steel bench and was not handcuffed. BURGE then left the room and came back a short time later asking if [redacted] was ready to talk. [redacted] again said he did not know what BURGE was talking about. At this point, BURGE told [redacted] to stand up and turn around. BURGE then handcuffed [redacted] hands behind him, with the backs of his hands together. He put the handcuffs on very tightly and backed [redacted] up to the wall and somehow fastened the handcuffs to a hook in the wall over the steel bench. This forced [redacted] to stand up in front of the bench and he could not sit down. BURGE then told him, "You will talk when I get back," and left the room.

b6 -2
b7C -2

BURGE came back approximately one hour later and by that time the handcuffs had cut off circulation in [redacted] wrists and were hurting him. His wrists were not bleeding. BURGE said something to the effect that he could see the handcuffs had cut into [redacted] wrists and asked if he was ready

b6 -2
b7C -2

SI

44A-CG-78234

Continuation of FD-302 of [redacted]

DOB [redacted]

10/29/90

Page 3

b6 -2
b7C -2

to talk. [redacted] told BURGE he had nothing to tell him. BURGE then loosened up the attachment of the handcuffs to the hook and the wall so [redacted] could sit down on the steel bench. He could not lie down. BURGE then said something to the effect that [redacted] would talk before he got out of there and that BURGE had had people like him before and they had eventually talked.

[redacted] sat on this bench all night and was not given anything to eat or drink. He was not allowed to use the bathroom. He stated that the door to this room was approximately eight or nine feet from where he was sitting on the steel bench, handcuffed to the wall. According to [redacted] the tightness of the handcuffs left marks on his wrists for a short while, but left no permanent scars.

b6 -2
b7C -2

[redacted] saw nobody until the next day, [redacted] when at about 11:00 AM or 12:00 Noon, a plain clothes officer, a white male, named [redacted] came in and asked if he was ready to talk. [redacted] told him he had nothing to say. This officer let [redacted] use the bathroom and then put him back in the room, but did not fasten his handcuffs to the wall. [redacted]

b6 -2,-4
b7C -2,-4

[redacted] then left and returned about one hour later with another white plain clothes officer. The took him to another small room on the same floor, with benches, but no other furniture. They took the handcuffs off and [redacted] asked if he was ready to talk. [redacted] said he had nothing to say and the two officers left the room.

Approximately two hours later, BURGE and another plain clothes officer, name unknown, came into the room. This second officer was a white male. [redacted]

b6 -2,-4,-6

[redacted] wearing a coat and tie. [redacted] believes b7C -2,-4,-6 he would recognize this officer if he saw him again. BURGE said they were going to take him to court, but instead they took him into BURGE's office and sat him down in a chair across from BURGE's desk. The second officer stood in the doorway of the office, which was located to [redacted] right. [redacted] was not handcuffed at this point. BURGE started asking [redacted] about his [redacted]

[redacted] told BURGE he did not know what he was talking about and BURGE became enraged and told the second officer to put the handcuffs on [redacted]. This officer handcuffed [redacted] hands behind the chair. The handcuffs were not attached to the chair. BURGE then told [redacted] that he was going to tell him (BURGE)

SI

44A-CG-78234

Continuation of FD-302 of [redacted] DOB [redacted] 10/29/90, Page 4

where [redacted] were and asked again where they were and [redacted] declined to answer. BURGE then placed a telephone call to [redacted] number not recalled, and had [redacted]

b6 -2,-6
b7C -2,-6

[redacted] BURGE then got on the telephone and told [redacted]

[redacted] BURGE recorded this telephone call and played it back after the call was completed. BURGE then said that [redacted] was living and that [redacted] would tell him what he wanted to know. [redacted] "kind of smiled" at this time and at this point, BURGE pulled open a drawer on the right side of his desk and pulled out a long barrelled, gray, 44 magnum revolver. [redacted] knew it was a 44 magnum because he "knows guns". BURGE then took out five bullets and put them back in the drawer. He left one bullet in the cylinder and spun it. He then said "You will talk or I'll blow your black fuckin' brains out". BURGE then got up from his desk, walked over to [redacted] put the muzzle of the revolver against the center of [redacted] forehead and pulled the trigger. He spun the cylinder and placed it back against his forehead and pulled the trigger again. [redacted] believed he did this three times, spinning the cylinder after each pull of the trigger. [redacted] could see the single round in the cylinder.

BURGE then put the gun back in the drawer and at this point was very angry. He again said something to the effect "You will talk", and walked to his right from behind the desk and took a typewriter cover from a typewriter in the corner of his office. This was a gray plastic or leather cover. [redacted] believed it was probably leather. BURGE walked over to [redacted] and put the cover over his head. [redacted] struggled to get up out of the chair and BURGE told the other officer to "hold the black fucker down". This officer stepped up behind the chair and put one hand on each of [redacted] shoulders and held him down in the chair. BURGE again placed the cover over [redacted] head and held the back of his head with one hand and used the other hand to press the cover into [redacted] nose and mouth. [redacted] could not breathe and after a few seconds, maybe three, he passed out. BURGE took the cover off and blew into [redacted] face to revive him and asked if [redacted] was ready to talk. [redacted] again said he did not know what BURGE was talking about. BURGE said he would kill him if he did not talk and repeated the above two more times with [redacted] passing out each time. After the third time, [redacted] told BURGE not to do it anymore and that he would tell him anything he wanted to know.

b6 -2
b7C -2

RUSSIAN
ROULETTE

4

SUFFOCATION

4

SI

44A-CG-78234

Continuation of FD-302 of [redacted]

DOB [redacted]

10/29/90

Page 5

b6 -2
b7C -2

BURGE did not ask [redacted] any questions at this point, but told him not to tell anyone about BURGE's actions and said that if he did, nobody would believe him. [redacted] was then taken back to the small room he had been placed in first upon arrival at the Area II station by the detective in BURGE's office and the handcuffs were removed.

[redacted] stated that during the entire incident in BURGE's office, there was a [redacted] in his [redacted] sitting in the office next to BURGE's with the door open and he could see and hear everything that happened. He did nothing to stop it. In fact, he was laughing while it was going on, as was the white detective in BURGE's office.

Later that day, [redacted] and a district attorney came in the room with a statement for [redacted] to sign. The statement was already prepared and ready for him to sign. [redacted] did not read the statement, but they read part of it to him. They did not read the part about his rights to him, but did read the part about the [redacted]. [redacted] was left in the room and at about dark was brought some chicken to eat, but it was too raw to eat. Later that night, he was transported to the police station at 11th and State, where he was kept overnight and went to court the next day, November 1, 1985.

[redacted] added that at no time was he advised of his rights by BURGE during his questioning. When he first saw BURGE, he told him he wanted an attorney, but BURGE said he was not going to call any attorney and not to even ask him about it. BURGE refused to let him make a telephone call.

[redacted] did not receive any medical examination for any possible injuries suffered during these incidents and stated that he has no scars from his treatment by BURGE.

The following description was obtained through observation and interview:

Name:

Previous Name:

Sex:

Male

b6 -2
b7C -2

SI

44A-CG-78234

Continuation of FD-302 of [redacted]

DOB [redacted]

10/29/90

, Page 6

b6 -2

b7C -2

Race:

Black

DOB:

Place of Birth:

Height:

Weight:

Hair:

Eyes:

Social Security

Account Number:

CCC Inmate Number:

Wife:

Address:

Children:

Arrests:

b6 -2,-6

b7C -2,-6

FBI

TRANSMIT VIA:

- Teletype
 Facsimile
 AIRTEL

PRECEDENCE:

- Immediate
 Priority
 Routine

CLASSIFICATION:

- TOP SECRET
 SECRET
 CONFIDENTIAL
 UNCLAS E F T O
 UNCLAS

Date 10/24/90

1 TO: SAC, SPRINGFIELD
 2 FROM: SAC, CHICAGO (44A-CG-78234) (R) (SQUAD 12)
 3 SUBJECT: COMMANDER JOHN BURGE b6 -2
 CHICAGO, ILLINOIS POLICE DEPARTMENT b7C -2
 4 [REDACTED] VICTIM
 5 CIVIL RIGHTS
 6 OO: CHICAGO

7 Enclosed for Springfield is two (2) copies of a letter
 8 from the TASK FORCE to CONFRONT VIOLENCE and two (2) copies of a
 9 court transcription.

b6 -5
b7C -5

On 10/23/90, victim's Attorney [REDACTED]

10 [REDACTED] was contacted regarding victim's whereabouts,
 11 permission to interview and any knowledge of the allegations set
 12 forth in the enclosed letter.

13 [REDACTED] stated he had heard of the allegations in the
 14 enclosed letter but had no first-hand knowledge as he was not the
 15 victim's Attorney at his trial. He stated he picked up victim's
 16 case on appeal. He stated the victim is currently incarcerated
 17 at the [REDACTED] Illinois. He
 18 stated he wished to be present during victim's interview and
 19 indicated any contact with the victim should be coordinated
 20 through him.

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

2 - Springfield (ENCLS. 4)
 2 - Chicago (44A-CG-78234)

RWH:rcb/mch
 (4)

44A-CG-78234-4

SEARCHED	INDEXED
SERIALIZED	FILED
OCT 24 1990	
FBI — CHICAGO	

done

Approved:

Transmitted

(Number) (Time)

Per

44A-CG-78234

LEAD

SPRINGFIELD DIVISION

AT CENTRALIA, ILLINOIS

Interview victim.

CHICAGO DIVISION

AT CHICAGO, ILLINOIS

Investigation continuing.

- 2* -

44A-CG-78234-5

SEARCHED INDEXED
SERIALIZED FILED

NOV 14 1990

D
[Redacted] AGO b6 -1
[Redacted] b7C -1

19-cv-4048(FBI)-193

Date 11/7/90

To: Director
Att.: _____

SAC CHICAGO
 ASAC _____
 Supv. _____
 Agent _____
 OSM _____
 Rotor # _____
 Steno _____
 Typist _____
 M _____
Room _____

Acknowledge
 Assign Reassign
 Bring file
 Call me
 Correct
 Deadline _____
 Delinquent
 Discontinue
 Expedite
 File

For Information
 Handle
 Initial & return
 Leads need attention
 Open case
 Prepare lead cards
 Prepare tickler
 Recharge file serial
 Send to

Return assignment card
 Return file serial
 Return with action taken
 Return with explanation
 Search and return
 See me
 Type

Enclosed for Chicago are two corrected copies b6 -1,-2
of an FD-302 re interview of _____ b7C -1,-2
conducted on 10/29/90, at _____ Illinois _____
by SA _____ to replace FD-302s sent
with referenced airtel.

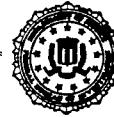
R.P.W./M
SAC ROBERT P. WRIGHT

See reverse side

Office Springfield

★ U.S.G.P.O.: 1988 - 202-042/85016

19-cv-4048(FBI)-194

Memorandum

To : SAC, Chicago

Date 11/14/90

From : SAC, Springfield

Subject : Commander John Burge
Chicago Illinois Police Dept

Victim

CR

OO: CG

 RUC File Destruction Programb6 -2
b7C -2

Enclosed are _____ 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:

FD-302 (Corig) of

b6 -2
b7C -2

on 10/29/90

44A-CG-78234-5X

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 16 1990	

[Handwritten signatures and initials over the stamp]

Close

Enc.

NOTE: DO NOT BLOCK STAMP ORIGINAL ENCLOSURES.

19-cv-4048(FBI)-195

Date 10/15/91

Birth Credit Criminal Death INS Marriage* Motor Vehicle Other _____
 Driver's License

To <u>IA</u>	Buded	b6 -1 b7C -1
Return to <u>SA</u>	File number <u>52 12 X210</u>	<u>44A-</u>
Name and alias <u>Gregory Banks vs Jon Burge</u>	Applicant, or employee, and spouse	

Address
Residence Filed in FEDERAL COURT 10/10/91

Business _____

Former _____

91CV 6470

*Date and place of marriage
(if applicable) Judge Leinenweber

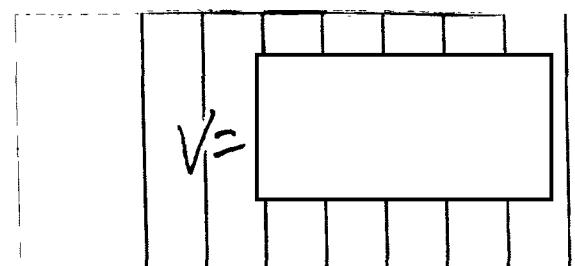
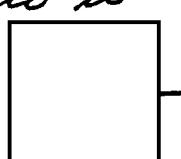
Race	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Age	Height	Weight	Hair	Eyes
Birth date	Birthplace					
Arrest Number	Fingerprint classification			Criminal specialty		

Specific information desired Can you get whole file if not too big Social Security Number

Results of check

b6 -1,-2
b7C -1,-2

USOC Class adv. file not
signed - would be "some time"
before they get it -
rec'd 10/17/91
Ead



~~Chicago Tribune~~
10/11/91

Teachers consider taking strike vote

The Chicago Board of Education made no offer of a salary increase after a full day of talks Thursday with the Chicago Teachers Union, prompting union leaders to ask teachers whether they want to vote Tuesday on a possible strike.

Before Thursday's talks, union officials held out hope that they could stop the clock on the process that allows teachers to void their three-year contract and vote on whether to strike on Nov. 18.

But school board negotiators made no proposal for a raise, promising only to commit a portion of any money that they may get from the state legislature or any other source. The two sides are scheduled to resume talks next Thursday.

Lawsuit charges police brutality

A man whose murder conviction was overturned because Chicago police beat a confession from him in 1983 filed suit Thursday in federal court charging the city with promoting a longstanding policy of police brutality and torture.

Gregory Banks, who was imprisoned for more than seven years before a higher court reversed his conviction, charged that Area 2 detectives twice put a plastic bag tightly over his head to coerce him into falsely confessing.

The suit charged Sgt. John Byrne and Detectives Peter Dignan, Rob-

ert Dwyer and Charles Grunhard with torturing Banks and accused Cmdr. Jon Burge, then in charge of the Area 2 violent crimes unit, of "encouraging and supervising this violence."

A spokesman for the Chicago Police Department had no comment on the lawsuit, which seeks \$16 million in damages.

The suit listed 23 other alleged incidents in which suspects, mostly blacks and Hispanics, were beaten by Area 2 detectives between 1972 and 1985.

On Leong plea withdrawals sought

Three of 17 defendants who pleaded guilty to gambling-related charges in the On Leong federal investigation have indicated they want to withdraw their guilty pleas, lawyers said Thursday. The government will oppose the plea withdrawals by Irving Chin, Dr. Chi Chak Leung and Yik Norm Moy, according to Assistant U.S. Atty. John Scully. Leung and Moy testified at the marathon On Leong trial that ended in mistrial for 11 Chinese business executives and three Chinese merchants associations on key racketeering and gambling charges.

Metcalfe Building gets official name

In a show of unity, politicians joined together Thursday to officially name the new Ralph F. Metcalfe Federal Building after a summer of rancorous debate.

The brouhaha over naming the

BURGE, JON

5/74

92-350-Sub14-878
p.2

can't locate

Area 2, Robbery
Chicago Police Department
Star #14322

BURGE, JON, G.

3/73

44-2010* DESTROYED
7/78

BURGE, JON

7/74

92-350-Sub14-861

can't locate

Area 2, Robbery
Cg. P.D.
Star #14322

BURGE, JOHN

100-125-4735 p.57

100-7441-117 p.84
-25 p.19

100-125-I 11 p.121
-5864 p.80

100-19746-681
Photo picture no 2
" " "

BURGE, JON

JDN:

TRUE:

FO: CG CASE NO: 044A-0003630

NAME TYPE: MAIN REF: M EVENT DATE:

OO: OO CASE NO:

VIOLATION: CR

SERIALS: 2

NO: 001
REC-NO: 001

INDEXED: 022189

MODIFIED:

SPECIAL:

RACE: U SEX: M ID-NO:

DOB: POB:

STREET NO: NAME:

CITY: ST: COUNTRY: ZIP:

LOC:

MISCELLANEOUS: CIVIL RIGHTS, ALLEGED POLICE BRUTALITY,

VICTIM, COMMANDER JON BURGE, CG PD.

b6 -2

b7C -2

<GO> - NEXT INDEX

F1 - REQUERY F3 - SUMMARY F6 - ADD INDEX

F7 - ADD ALIAS

F8 - DELETE

F10 - INDEX

F9 - MODIFY SHIFT-F10 - FOIMS

VICTIM
INTERVIEW
FD-302

**CITY OF CHICAGO
INTER-OFFICE
COMMUNICATION**

REPLY REQUESTED		ACTION REQUIRED	
YES	NO	YES	NO

DATE:
SUBJECT:

21 NOVEMBER 19 91

TO: ADDRESSEE(S)

FROM

1. [REDACTED] ASSISTANT UNITED STATES ATTORNEY b6 -3
219 S. DEARBORN ROOM # 1500 b7C -3

JON BURGE

CR. # 123543

2.

3.

POLICE OFFICER [REDACTED]
RECORDS SECTION, INTERNAL AFFAIRS DIV.

REFERENCE:

GRAND JURY [REDACTED]

b3 -1
b6 -4
b7C -4

THE ATTACHED COMPLAINT REGISTER INVESTIGATION IS BEING FORWARDED TO YOUR
OFFICE, AS REQUESTED.

MESSAGE

CR. # 123543

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

POLICE OFFICER
RECORDS SECTION,

INTERNAL AFFAIRS DIVISION

SIGNATURE:

12-2-91

REPLY

DATE OF REPLY:

SIGNATURE:

19-cv-4048(FBI)-219

NOTICE

IF YOUR APPEARANCE IS NOT REQUIRED BY THIS SUBPOENA, PLEASE INCLUDE A COPY OF THE SUBPOENA WITH EACH DELIVERY OF MATERIALS PROVIDED IN RESPONSE TO THIS SUBPOENA. IF MATERIALS ARE BEING DELIVERED BY MAIL OR IN PERSON, RATHER THAN TO THE SPECIAL AGENT, THEY SHOULD BE DIRECTED TO:

UNITED STATES ATTORNEY'S OFFICE
219 SOUTH DEARBORN STREET - ROOM 1500
CHICAGO, ILLINOIS 60604

ATTENTION: AUSA

b6 -3
b7C -3

If you have any questions, please call the Assistant United States Attorney [AUSA]. (You will find the name and phone number of the AUSA in the lower right-hand box of the subpoena.)

Memorandum



To : SAC, CHICAGO (44A-CG-78234) **(R)**

Date 11/27/90

From : SA [redacted] (SQUAD 12)

b6 -1,-2
b7C -1,-2

Subject: COMMANDER JOHN BURGE
CHICAGO, ILLINOIS POLICE DEPARTMENT
[redacted] VICTIM

Due to the writer's transfer to another Squad, it is requested this case be reassigned.

- 1* -

[redacted]

b6 -1
b7C -1

*Reassign
11/27/90
prud*

2 - Chicago

RWH:rcb
(2)

44A-CG-78234-6

SEARCHED	INDEXED
SERIALIZED	FILED
NOV 27 1990	
CAGO	
[redacted]	JM

SA

HOUSE OF SCREAMS:

Torture by Electroschok:

Could it happen in a Chicago police station?

Did it happen at Area 2?

Chicago

Reader

1/26/90

VOL 19

N. 17

Illustration
by
Albert
Richardson

By John Conroy

In Chicago police documents, February 9, 1982, is recalled as cold and overcast. At about two o'clock that afternoon, Gang Crimes officers William Fahey, 34, and Richard O'Brien, 33, were in uniform, cruising south on Morgan, when they zeroed in on a brown, two-door Chevrolet Impala. Why they stopped the car is unclear. Officer Fahey's widow recalls that her husband had a sixth sense for spotting cars in which the police might have an interest; even when he was off duty, he had the habit of pointing to vehicles and saying, "That car is dirty." On that cold day in February, he may have had a feeling that the '78 Impala was dirty. He would have been right.

The occupants of the car, the brothers Andrew and Jackie Wilson, had committed a burglary less than an hour before. The take had not been spectacular: some clothes, a television, a fifth of whiskey, some bullets, and a jar of pennies. Jackie, 21, also known as Robert and Bubbles, was driving;

he was wanted for parole violation. Andrew, 29, also known as Joseph, Tony and Gino, had a chrome-plated .38 under his hat on the front seat; he was wanted on two warrants, one for parole violation, the other for bond forfeiture in an armed-robery case.

The tales told by witnesses and participants diverge at this point, but it seems likely that Jackie saw the lights flashing atop the police car and pulled the Impala to the curb at 8108 S. Morgan. Officer O'Brien left the driver's seat of the police car and approached the Impala. Jackie got out of the car, and O'Brien allegedly joked about seeing one of the men throw a beer bottle out the window. He asked Jackie for his license, and when Jackie said he didn't have it, O'Brien frisked him and then decided to check out the car.

At about that point Andrew Wilson got out of the passenger seat, and in the next 30 seconds a tragic sequence was played out: Officer Fahey, having come to the passenger side of the Impala, picked up Andrew's

jacket from the front seat. He may have found the bullets from the burglary in a pocket. While he was holding the jacket, Andrew moved in behind him and stripped him of his gun. The two men began to struggle for the weapon and slipped in the snow. Andrew Wilson pulled the trigger, perhaps accidentally, perhaps not, and a bullet went through the head of William Fahey.

Meanwhile, on the driver's side, Officer O'Brien had leaned into the Impala and found Andrew's .38 on the front seat. Hearing a shot, he backed out of the car, pointed his weapon at Jackie Wilson, and yelled, "Freeze." Jackie froze. O'Brien, probably unable to see his partner, took a step toward the rear of the car. Andrew Wilson shot him once in the chest with Fahey's gun.

Andrew then yelled at his brother, telling him to disarm O'Brien. Jackie yelled back that the cop was still moving. The older Wilson climbed onto the back of the Chevy, pumped four more bullets into

continued
page 8

continued from page 1

O'Brien, slid off the car, and picked up O'Brien's gun. The brothers got back into the Impala and sped off, leaving the two policemen bleeding in the snow.

As the Wilson brothers pulled away, a man named Andre Coulter was driving north on Morgan with his friends Dwayne Hardin and Louis Booker as passengers. At the scene of the shooting Coulter pulled to the curb and the three men warily crossed the street. Coulter put his jacket under O'Brien's head and Hardin picked up the radio in the police car and informed the dispatcher that two police officers were down and bleeding. Almost simultaneously, two residents of the 8100 block of Morgan were reporting the same news over the phone. In no time the scene was crawling with cops.

O'Brien and Fahey were loaded into a paddy wagon and driven at speed to Little Company of Mary Hospital. O'Brien was dead on arrival. Fahey died 20 hours later.

The police began to track the killers with fragments of information. Andre Coulter said the getaway car was a late-model Impala and he thought he remembered that the front grillwork might have been damaged. An electrician who had been doing a job in the neighborhood reported that the car was a brown two-door. Other witnesses described the fugitives as blacks in their 20s, and Tyrone Sims, who had witnessed the shooting from his front window, helped put together a police sketch. A bulletin went out for a 1977-80 Chevrolet Impala, bronze, rust, or burnt orange in color, a two-door model with "possible damage to front grill on driver's side."

Lieutenant Jon Burge, commanding officer of Area 2 Violent Crimes, was off duty when the incident occurred. He was at a car wash at 87th and Langley when a detective came running through looking for the suspect vehicle. The detective told Burge of the shootings, and almost simultaneously Burge's beeper went off. He sped to his office to take charge of the investigation. He would not return home for five days.

At that time, Area 2, which sprawls over some 60 square miles of the south side, was headquartered in a brick building at the corner of 91st Street and Cottage Grove Avenue. The cops who called it home were having a terrible winter. At times it seemed almost reasonable to believe that someone had declared open season on policemen. Five law-enforcement officers had been shot in the Area, four of them fatally, within little more than a month. (The victims, aside from Fahey and O'Brien, were two deputy sheriffs, shot during an armed robbery at a McDonald's, and James Doyle, a rookie cop, who was shot dead on a CTA bus while arresting a robbery suspect named Edgar Hope.) As a result, feelings were high when the police set out to find the killers of Fahey and O'Brien. A grid search was set up to find the Impala, and a house-by-house canvass began in the area of the shooting.

Enthusiasm brought excess. Policemen began kicking down doors. Patricia and Alvin Smith claimed that plainclothesmen pointed guns at the head of their 12-year-old daughter. Adolph Thornton reported that a policeman had shot Chuck, Thornton's two-year-old German shepherd. William Phillips, 32, a Chicago lifeguard, complained that he had been arrested for standing on a street corner, that one of his teeth was knocked out in the process, and that he

was later charged with disorderly conduct. The Reverend Willie Barrow of Operation PUSH said that in the neighborhood of the shooting, every young black male in sight was being stopped and questioned, and the *Defender* quoted a woman who said she'd sent her son away because "the police were crazy, picking up kids who clearly did not match the description of the two men who were wanted." Renault Robinson, director of the Afro-American Police League, called the dragnet "sloppy police work, a matter of racism." He compared the police action to that of a southern sheriff leading a posse that turned into a lynch mob. Jesse Jackson announced that the black com-

munity was living under martial law, in "a war zone... under economic, political, and military occupation," that the Police Department was holding "the entire black community hostage for the crimes of two."

Ironically, it was pure luck and citizen cooperation, not the dragnet or the police enthusiasm, that broke the case. Tyrone Sims, the man who had witnessed the shooting from his front window, was shown a large batch of mug shots and tentatively identified Donald White, also known as Kojak, as the shooter. Kojak, it turned out, had nothing to do with the murders, but by the strangest of coincidences he knew who the murderers were. He lived next door to the house that the Wilsons had broken into on February 9, and according to police reports, the loot from the burglary had been divided at his house. Kojak explained that Andrew Wilson was plotting the jailbreak of Edgar Hope, the man who had shot the rookie cop on the CTA bus on February 5; Wilson needed guns for the jailbreak, Kojak said, and the burglary had been carried out with that in mind; the burglars had found bullets, but no weapons.

A body-and-sender man named Solomon Morgan, who had known the Wilsons for ten years, also fingered the two brothers. After the shooting, Jackie Wilson had called Morgan and asked him to paint the Impala and repair the car's grillwork. Morgan, realizing that the description of the killers' car matched the vehicle he was supposed to paint and repair, called the police.

And so the police began to concentrate their efforts on finding the Wilson brothers, who were separately moving from apartment to apartment on the south and west sides. Pursuing various leads, Lieutenant Burge and his men surrounded a building at 809 W. Jackson at about 5:15 AM on Sunday, February 14. Burge was the first man through the door, and he arrested Andrew Wilson without firing a shot.

Not long thereafter, Chester Batey, a policeman with the 8th District tactical unit, received a call from his father, a minister, who said that a member of his congregation knew where Jackie was hiding. Batey flagged down a passing police car, and at 8:05 that Sunday morning, he and assisting policemen from the 2nd District broke into the third-floor apartment at 5157 S. Prairie. The man inside denied he was the subject of the manhunt, but at the police station he admitted he was indeed Jackie Wilson.

Both Andrew and Jackie gave inculpatory statements at Area 2. They were tried together and convicted. Both convictions were reversed on appeal. The two brothers were then tried separately and both were convicted again. Today, more than seven years after the murders of Fahey and O'Brien, the Wilson brothers should be little more than tragic footnotes in Chicago's history, of consequence mainly to the children left without a father, the wife left without a husband, the mothers and fathers left without sons, and the policemen left without comrades.

Instead, Andrew Wilson comes back to haunt the city, telling a bizarre tale fit for some third world dictatorship. In a civil suit against the city of Chicago, the Police Department, and various detectives from Area 2, Andrew Wilson says he was tortured.

You might be tempted, as many have been, to dismiss Wilson's claim as a con's tale, but the judges of the Illinois Supreme Court didn't. In granting Wilson a second criminal trial, they wrote, "The evidence here shows clearly that when the defendant was arrested at 5:15 am on February 14, he may have received a cut above his right eye but that he had no other injuries; it is equally clear that when the defendant was taken by police officers to Mercy Hospital sometime after 10 o'clock that night he had about 15 separate injuries on his head, chest, and leg. The inescapable conclusion is that the defendant suffered his injuries while in police custody that day..."

You might be tempted then to excuse the police, assuming that in their outrage over the death of a comrade they lost control and beat Wilson up. But Wilson was not complaining of a beating. He was complaining of burns and electric shock, the shock delivered by two different devices to his genitals, his ears, his nose, and his fingers. After examining the physical evidence, the deputy chief medical examiner of Cook County, initially a skeptic, became a believer.

Perhaps you are still unmoved, believing that excruciating pain is fit punishment for a man who killed two cops. But what if it turned out that it was not merely Andrew Wilson who was tortured by electroshock? What if a parade of men arrested by de-

tectives at Area 2 over the course of a decade also claimed that they had been interrogated by electrical means, or had plastic bags put over their heads, or had their fingers put in bolt cutters, or were threatened with being thrown off a roof? What if there was no connection at all between the alleged victims, no evidence of any collusion among them, and yet they kept pointing to the same police station and the same group of officers?

We expect charges of corruption to surface periodically on any big-city police force, but normally we can take comfort, at least, in the way the charges come to our attention—an honest cop wears a wire; a federal agency does its job; a brave state's attorney decides he can't look the other way; or a newspaper commits great resources to an investigation. But the charges of torture at Area 2 did not get a proper hearing until a convicted cop killer filed a civil lawsuit.

Andrew Wilson's suit came to trial last February 13 in the courtroom of U.S. District Court Judge Brian Barnett Duff. It charged that various policemen beat Wilson after his arrest and arrival at Area 2; that they put a plastic bag over his head so he could not breathe; that they burned him, first with a cigarette and later on a radiator; that Detective John Yucaitis began the electric shock and Lieutenant Jon Burge carried it to great lengths; that detectives

Patrick O'Hara and William McKenna participated in the conspiracy by making no mention of the torture in their reports on the case; and that it was a de facto policy or custom of the city of Chicago and the Police Department to mistreat persons suspected of killing police officers—in other words, that the ill-treatment was widespread and well-known, even at the highest levels of the department, and nobody did anything about it. Wilson was asking for \$10 million in damages. The outcome would have no effect on his criminal conviction.

Although Wilson was suing six defendants (the four detectives, former Police Superintendent Richard Brzezicki, and the city), it soon became apparent to everyone in the courtroom that the real showdown was between Andrew Wilson and Jon Burge, as Burge was the commander of the unit and allegedly the perpetrator-in-chief. On the surface, the battle seemed to be a mismatch of tremendous proportions.

Jon Burge was born a few days before Christmas 1947, the second son of Lloyd and Ethel Burge. Lloyd, of Norwegian descent, worked for the phone company in a blue-collar job, and Ethel, who was of German, English, and Irish descent, went to work when her son Jon was about ten years old. She wrote a fashion column for the *Chicago Daily News*, did some modeling, organized fashion shows, and once wrote a book in the "dress for success" vein.

Jon Burge was a good student at Bowen High School and went off to the University of Missouri with great expectations. He managed to flunk out, however, not long after his arrival. In an interview last September he told me that he was enjoying himself too much to study, and so was asked to leave. After returning to Chicago he worked as a stock clerk in a supermarket for eight months, and then joined the Army, where he eventually attained the rank of staff sergeant. Along the way he served time as a drill instructor and attended Military Police school, where he received some training in

interrogation (among many other things). He volunteered twice to go to Vietnam. The first time he was sent to Korea. The second time he got what he asked for.

In Vietnam Burge was twice awarded the Army commendation for valor, both times for leaving a bunker to drag wounded men back to safety amid incoming fire. He also was given the Bronze Star for meritorious service, the Vietnamese Cross of Gallantry, and a Purple Heart (which he says was given to him for a shrapnel wound that laid him up for "about 15 minutes"). He took an honorable discharge in August 1969, went to work in a gas station, and applied to join the police. In March 1970, at the age of 22, he was officially accepted.

On January 26, 1972, Patrolman Burge, age 24, responded to a call of "woman with a gun" at a drugstore at 65th and Woodlawn. When he arrived he saw Erma Moody, 22, talking on the telephone and pointing a .22 caliber derringer at her own throat. She told Burge not to come any closer. She said she wanted to go home to check on her baby, and Burge and another officer escorted her there. Once in her home, Mrs. Moody, still holding the gun to her throat, said she would like to see a member of the clergy. Burge made the call, and he and the three priests who responded did their best to soothe the distraught woman. After about an hour and a half, Burge began to feel that Mrs. Moody was likely to pull the trigger, so he signaled to the other officer that he was going to make a move for the gun. Burge pounced. Erma Moody pulled the trigger. Nothing happened, as Burge had managed to jam his thumb into the firing mechanism. In recognition of that effort, the Police Department gave Burge his first department commendation.

Burge was commended again in 1980 for an incident that occurred while he was off duty. He was in the vicinity of 111th and Western when he spotted a car containing three men and felt that, as Officer Fahey might have said, the car was dirty. He stopped and waited. One of the men got out and walked into a nearby Fotomat. A few minutes later, the man left the store in a hurry and jumped into the car. Burge ran into the Fotomat, learned it had been robbed, and followed the fugitives in his own car. When they stopped at a red-light, Burge pulled his gun, snuck up behind them on foot, ordered the trio out of the car, and placed them all under arrest.

And so has gone Burge's career. His personnel file contains 13 commendations and a letter of praise from the U.S. Department of Justice. He has been promoted repeatedly, has served as commander of the Bomb and Arson Unit, and is now commander of the detective division in Area 3. When he took his seat in Judge Duff's courtroom to answer Andrew Wilson's charges, Burge outranked 99 percent of the policemen in the city.

Andrew Wilson declined to be interviewed for this story, so what I know of his background comes largely from police records and a presentencing report written by social worker Jill Miller in 1988. Miller's report indicates that Andrew Wilson was the third of nine children, born on October 8, 1952. His father worked as a machine operator in a soap plant 50 miles from Chicago, and his mother worked as a waitress in various restaurants. While the parents were working, the Wilson children were taken care of by relatives and by the oldest child, a daughter named Bobbie, who was two years older than Andrew. Perhaps the children hungered for attention, but their material needs were taken care of. When Andrew was 11, the family moved into a three-bedroom split-level house in Morgan Park, a house described in Department of Corrections records as neat, clean, and nicely furnished, with an electric organ and a small library. Those records also indicate that the family regularly attended church services and that all of the Wilson children could play the organ by ear.

Andrew, however, probably had some sort of cognitive difficulties from birth.

When he was in first grade, he was diagnosed as "educable mentally handicapped" (EMH) and was thereafter tracked as a slow learner. At the age of seven he scored 73 on an IQ test, a score that would qualify him as "borderline retarded." At age 11 he scored 78. At age 15 he scored 70. Yet various professionals who have come in contact with him as an adult have said that he is of average intelligence. Miller's report concludes that Wilson was not diagnosed properly as a child, that his low IQ scores were probably the result of a learning disability that was never identified or treated.

Andrew Wilson never learned to read. At 11 he began to skip school and to periodically run away from home, sleeping in old cars in the neighborhood. His parents told correctional officials that they would "whup him . . . it didn't help. . . . We just couldn't control him." At 13 he was sent to a school for children with behavioral problems. At 14 he started stealing. He was committed to another special school, ran away after six weeks, and ended up in the Audy Home. At 15 he recorded his first conviction for burglary, after which he spent time in the reformatory at Saint Charles and in the juvenile detention center at Sheridan.

At about this time Wilson was given a neurological exam, the results of which suggested an organic brain dysfunction. A reformatory doctor put him on tranquilizers for emotional disturbance and hyperactivity and on an anticonvulsive medication used for treating seizure disorders. Miller's report indicates that Wilson functioned well on the medication, well enough that after about two years doctors decided he might be able to function normally without it. His prescriptions were stopped about three months before he was paroled. Miller notes that he experienced some difficulty afterward, including anxiety, irritability, and depression. She goes on to say, "It appears from all available records and Andrew's statements, that he was never again given a neurological exam nor assessed for his need for anti-convulsive medication."

Andrew was 16 at the time of his release. He returned to Morgan Park and his parents found him jobs. He worked on a cleaning crew, and in 1970 labored briefly as a

busboy at Schuler's restaurant on Irving Park Road. But he took again to theft. He was arrested in October 1969 for unlawful use of a weapon, received a year's probation, and was arrested eight days later for burglary. In 1970 and again in 1971, he was arrested for burglary and served brief sentences.

At some point after his release from the juvenile facility in 1969, Wilson began a relationship with a woman who lived in his family's neighborhood. They never married and never lived together, but their relation-

ship survived several of Andrew's jail terms. The couple had two daughters, born in 1971 and 1973. Miller reports that Wilson's girlfriend believed him to be a good father and said he was very generous with his daughters. During Wilson's subsequent stays in prison he took up knitting and crocheting, and his daughters, who are now teenagers, told Miller that their father has knitted them numerous scarves, hats, and headbands. "The girls reported that when they talk to him on the phone he 'tries to teach us manners . . . wants us to be polite. . . . Dad always talks to us about school . . . how important school is, especially reading. . . . He tells us . . . 'Do good, and when you read in class, read for me.'" Both daughters are bright and academically successful.

Wilson, however, knows them mostly by phone, as he has been incarcerated for all but about four months of the last 15 years. In 1975 he took up armed robbery. He was thereafter sentenced to 8 to 16 years for the robbery of a suburban police officer and a coffee shop.

Upon entering the penitentiary at Joliet, he was described by prison officials as aggressive, hostile, negativistic, uncooperative, and in need of basic education. He was transferred to Menard and worked in the kitchen until he received a conduct report for "unauthorized possession of state property"—five pieces of fried chicken and three oranges. He attended Protestant services, participated in religious counseling, and was eventually reassigned to the kitchen. His correctional counselor noted that Wilson responded well to personal counseling. He was paroled in October 1981.

During the next three and a half months he saw his daughters almost every day and did odd jobs at a beauty parlor in exchange for being allowed to sleep there. He also returned to his old profession. His police file indicates that he participated in four armed robberies in the four months before his fatal encounter with officers Fahey and O'Brien. In one incident, he and his brother Jackie are alleged to have robbed a camera store by pulling guns on the two clerks, tying them up with tape, and leaving them in the basement, after which they allegedly relieved

three customers of their cash and walked out with enough equipment to open a small store. In another incident, Andrew was alleged to have robbed a clothing store, leaving Jackie behind posing as a victim so that he could give a phony description to the police.

On February 8, 1982, Andrew, disguised as a postman, carried a package to the home of 56-year-old Levada Downs. When she opened the door to take the package, Andrew pulled a gun. Jackie stepped out of hiding, and the brothers forced their way inside. They tied up Mrs. Downs, ransacked her house, and fled with \$700 in currency and her .38 Colt, the same gun that Officer O'Brien would find on the front seat of the Impala the following day.

After being sentenced to death in his first trial, Wilson was sent to Menard Prison and then to Pontiac. At Menard he continued to attend Protestant services until August 1983, when he asked to attend Roman Catholic chapel, and Miller reports that "According to DOC [Department of Corrections] records, he attended Catholic services regularly from then on. Andrew says that his reasons for switching to the Catholic faith are personal; he will say only that he 'liked that religion.'"

Miller, summarizing Wilson's personal characteristics, called him "an institutionalized person. Having spent much of his life since 1967 in institutions, he functions well in that setting. His ability to function in the community is severely limited. . . . Emotionally, he functions at an adolescent level. He has been impulsive and has been unable to accept delayed gratification. . . . he has learned not to work for what he has wanted; he chose, instead, to take it."

Miller's analysis, however, was not public knowledge. In the public mind, Andrew Wilson was known only by the label "cop killer." So when opening arguments began on his civil suit in Judge Duff's court last February, the odds against him were more than considerable. He was a murderer. Surge was a war hero. Anarchy was suing for order. The underclass was having a go at the establishment. In more than one sense it seemed to be a confrontation of black versus white.

Judge Brian Barnett Duff is an avuncular Republican with gray hair, a winning smile, an aversion to the death penalty, and a fondness for quoting Shakespeare from the bench. He is not, however, a popular man in the federal courts. Last March, *Chicago Lawyer* surveyed 348 attorneys who practice in federal court, both prosecutors and defense lawyers, asking them to rate 20 judges on the federal bench in the Northern District. The survey asked eight questions dealing with knowledge of the law, ability, fairness, efficiency, and courtesy. "Of the eight questions, Duff was rated worst on five and second worst on one," *Chicago Lawyer* reported. While respondents conceded that Judge Duff worked hard and was a good case manager, 76 percent thought his understanding of complex issues was either poor or very poor, 74 percent thought he was not courteous to lawyers and litigants, and 71 percent disagreed or strongly disagreed with the statement that Duff's legal opinions are clear and well-reasoned. (Judge Duff declined to be interviewed for this article, citing a standard policy of not commenting on pending matters.)

For the Wilson case, Duff's courtroom was laid out with three tables, one behind the other, to the judge's right; the jury box was on his left. Wilson's attorneys occupied the first table, a most unfortunate placement, as it put them directly in the judge's line of fire. Wilson was represented by the People's Law Office, a group of lawyers specializing in civil rights cases whom many people in the legal community refer to simply as the P.L.O. Three other firms had been assigned to represent Wilson but had found ways to bow out or evade the responsibility, and Wilson had rejected a fourth firm before settling on the P.L.O. The P.L.O.'s attorneys were a geographically unlikely trio: Flint Taylor, a lanky, gray-haired man who hails from the Boston area; Jeffrey Haas, a

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bearded, dark-haired attorney whose speech has traces of his Atlanta upbringing; and John Stainthorp, who wears sideburns reminiscent of Civil War generals, and who hails from Preston, a city in northern England. Taylor and Haas first worked together as lawyers for the survivors of the infamous Panther raid of December 4, 1969, during which the Chicago police killed Black Panther leaders Fred Hampton and Mark Clark; Taylor and Haas, after a 13-year legal battle, won \$1.85 million in damages from the city, the county, and the federal government for the survivors of the raid and the families of Hampton and Clark. The People's Law Office has since taken on many unpopular defendants in criminal cases and has a steady track record of civil rights suits, many against the police. In style they are zealous (their opponents in the Wilson case would accuse them of conducting a holy war), fearless, and rarely concise.

The city's lawyers—James McCarthy and Maureen Murphy, both from the office of the corporation counsel—sat behind Wilson's attorneys. They played second fiddle to the third table, where sat William Kunkle, defender of the four accused policemen, and his associate Jeffrey Rubin. Kunkle, a partner in the firm of Phelan Pope and John, brings to court a righteous air and a keen legal mind. He seems a born prosecutor, yet he began his Chicago legal career as a public defender. He switched to prosecutor in 1973, when he became an assistant state's attorney, and five years later was raised to the position of chief deputy, the third highest rank in the state's attorney's office. After Democrat Richard M. Daley took over the office from Republican Bernard Carey, Kunkle was raised a notch in rank, taking over as first assistant on July 5, 1983. Along the way he prosecuted some of the county's most infamous criminals, including serial killer John Gacy and several men accused of killing law-enforcement officers. Kunkle was the prosecutor who first convicted Andrew Wilson of murder-

Five cops had been shot in Area 2 within little more than a month. As a result, feelings ran high when the police set out to find the killers of officers Fahey and O'Brien. Jesse Jackson announced that the black community was living under martial law, in "a war zone."

ing officers Fahey and O'Brien. In 1985, having left the state's attorney's office for Phelan Pope and John, he returned to the criminal courts as special prosecutor in Wilson's retrial, and he again prevailed. He recently served the U.S. Congress in the ethics investigations of House Speaker Jim Wright and Representative Newt Gingrich, and he has twice been on the short list of candidates to become U.S. attorney. Kunkle is a great favorite of the federal court bulls, the group of retired men who hang around the Dirksen Building following celebrated trials the way some Chicagoans follow sports teams. During the course of the Wilson trial, the bulls included Kunkle on their list of the ten best attorneys in the city.

Kunkle is a man who takes up a lot of room. At a defense table that seated four policemen of considerable heft (I suspect their average weight was about 240 pounds), Kunkle could have been mistaken for one of the defendants but for the quality of his courtroom attire. A brutal cross-examiner, he spoke with his sarcasm, with his incredulousness, with his anger at a witness he deemed criminal or upstanding citizen; it makes no difference. It is far easier to imagine a judge being intimidated by Kunkle than Kunkle by a judge, and there were many times in Judge Duff's courtroom when it seemed the real power was not on the bench.

Kunkle and Wilson were by no means strangers, having faced off in courtrooms twice before, and the former prosecutor was by no means circumspect about how he felt about the plaintiff. During the course of a deposition taken in Pontiac in December 1988, Wilson broke down while he was talking about being shocked. Kunkle's response was to smile broadly and say "I love to see him cry."

Andrew Wilson did not attend court on a

daily basis, and so his appearance on the witness stand, seven days after the start of the trial, drew a good number of spectators, among them policemen, lawyers, and relatives of Officer Fahey. Wilson's mug shot had appeared several times in the Tribune, and those of us who had not yet set eyes on him were prepared for a thinly bearded desperado. Instead he appeared clean-shaven, a short, trim, balding man, neatly dressed in a blue sweater, blue shirt, and tinted glasses, all in all a far more presentable figure than the man in the mug shot. After being sworn to tell the truth, he sat down, and from that moment almost until he finished testifying he assumed a crouched posture, leaning forward, his arms resting on the witness box, his head just above his hands, appearing to be even shorter than he was. In response to John Stainthorp's questions, he stated his place of residence as Pontiac prison and his term as natural life without possibility of parole.

Q: How old were you when you left the Chicago public school system?

A: I don't know.

Q: Did you graduate from elementary school?

A: No.

Q: At the time that you last attended a Chicago public school, were you able to read?

A: No.

Q: And are you able to read today?

A: No.

Q: Are you able to write?

A: What I know how.

Q: By that you mean you can copy letters?

A: Yes.

Q: Do you know how to spell words?

A: The ones I know.

Q: Do you know how many words you know?

A: It's not that many.

Wilson went on to relate the events of February 14, 1982, from his point of view. He claimed that upon leaving the apartment where the arrest had taken place, Burge told his men not to assault the prisoner, adding "We'll get him at the station." When they got to Area 2 headquarters, Wilson said, he was taken into a small room, thrown to the floor, and beaten; then he was kicked in the eye—the kick tore his retina, he said—and someone took a plastic bag out of the garbage can and put it over his head, causing him to suffocate until he bit a hole in the bag. That session ended, Wilson said, when Burge walked in and told the assembled cops that "he wouldn't have messed my face up, he wouldn't have messed me up"—in other words, that Wilson's assailants had screwed up, that they should not have left any marks.

Wilson testified that he was then taken to Interview Room Number 2, and that Burge said something on the order of "My reputation is at stake and you are going to make a statement." According to Wilson, Detective Yucaitis entered the room a short time later carrying a brown paper bag from which he extracted a black box. Yucaitis allegedly pulled two wires out of the box, attached them with clamps to Wilson's right ear and nostril, and then turned a crank on the side of the box. "I really can't explain it," Wilson said. "The first time he did it, it just hurt. I can't explain it. When Burge was doing it I can explain more because he did it more.... It hurts, but it stays in your head. OK? It stays in your head and it grinds your teeth.... It grinds, constantly grinds, constantly.... The pain just stays in your head.... It's just like this light here like when it flickers, it flickers... and your teeth constantly grinds and grinds and grinds and grinds and grinds and grinds. All my bottom teeth was loose behind that, these four or five of them, and I tried to get the doctor to pull them. He said he wouldn't pull them because they would tighten back up."

"I kept hollering when he [Yucaitis] kept cranking," Wilson said, "but he stopped because somebody come to the

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door, so he went to the door and see what they wanted." When Yucaitis came back, Wilson said, he put the device back in the bag and left. Wilson testified that Burge returned with the black box about an hour later.

Q: What, if anything, did Commander Burge say when he came into the room?

A: He said "fun time."

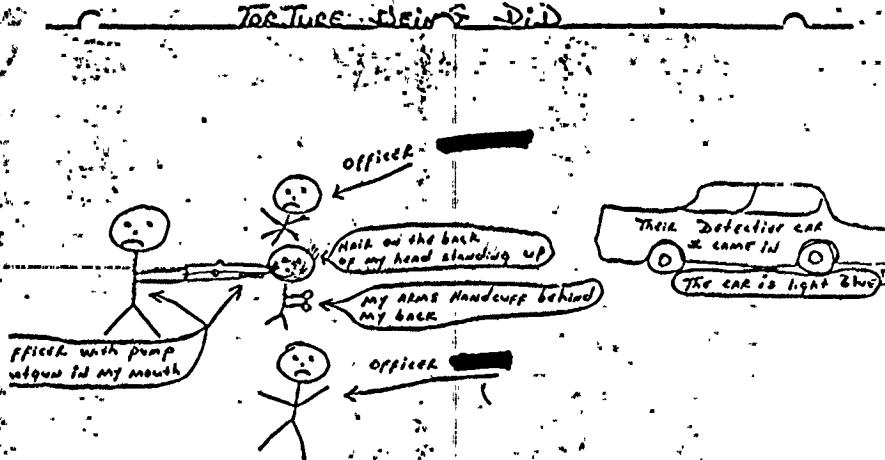
According to Wilson, Burge put one clip on each of his suspect's ears and started cranking: Although he was handcuffed to a ring in the wall, he said, he could move his shoulders, and so was able to rub the clamps off his ears. "So they got tired of me rubbing the wire off my ear. So he unhandcuffed one of my hands, unhandcuffed the left hand, and he tried to stretch me across the room and the radiator was right there, so he was trying to stretch me across, across the room, and I wasn't going. So the officer, the other officer was there, he helped him, and they both stretched me across... they hooked me onto the other ring over there."

Wilson said that he was now unable to rub the clamps off his ears; each of his outstretched arms was handcuffed to a ring in the wall, and between the rings was a radiator that his chest sometimes touched.

A: ... So I don't know if he put it back on my ears or what, but it didn't last long because he put it on my fingers, my baby fingers, ... on one finger and one on the other finger and then he kept cranking it and kept cranking it, and I was hollering and screaming. I was calling for help and stuff. My teeth was grinding, slickering in my head, pain and all that stuff.

Q: While you were stretched across in this fashion, were you aware of whether or not the radiator was hot?

A: I wasn't paying no attention, but it burned me still. But I didn't even feel it... That radi-



Darrell Cannon drew this picture as part of an affidavit in which he alleged that Area 2 officers tortured him in November 1983.

tor ... it wouldn't have mattered. That box ... took over. That's what was happening. The heat radiator didn't even exist then. The box existed.

Q: ... After Commander Burge stopped with the crank machine, what happened next?

A: He got the other one out. It's black and it's round and it had a wire sticking out of it and it had a cord on it. He plugged it into the wall... He took it and he ran it up between my legs, my groin area, just ran it up there very gently ... up and down, up and down, you know, right between my legs, up and down like this, real gentle with it, but you can feel it, still feel it. Then he jacked me with the thing and it slammed me ... into the grille on the window. Then I fell back down, and I think that's when I started spitting up the blood and stuff. Then he stopped.

Twice in the course of his testimony about the electrical devices, Wilson came close to breaking down. The first time came

after Stainthorp asked, "And when he brought the brown paper bag back, what did he do with it?" Wilson's reply was, "I want to leave," and the judge declared a short recess. The second time came a few minutes later, when Wilson said that somehow, during the course of the electroshock, the alligator clip had come loose and he had gotten it in his hand, but the maneuver had done him no good, as he was simply shocked there as well. He lost his ability to continue the story, and was urged by Stainthorp to take a minute and compose himself.

Wilson said that later, after the electroshock was finished, he was taken to another police station for a lineup, and that there he got a mouthful of the lieutenant's gun. Burge, he said, "was playing with his gun ... he was sticking it in my mouth and ... he kept doing it, he kept clicking it and he had it in my mouth and stuff. So he finally pulled it out."

At 6:05 PM, after 13 hours in the custody of Area 2 police, Wilson gave a statement in which he confessed to the murders of officers Fahey and O'Brien. The statement was taken by Assistant State's Attorney Larry Hyman, in the presence of Detective

O'Hara and a court reporter. After their departure, Wilson was left alone with another detective and Mario Ferro and William Mulvaney, the two officers assigned to the paddy wagon that was to transport the prisoner to the lockup at 11th and State. On the stand Wilson claimed that he was beaten again at this point, and that his penis was grabbed and squeezed by one of the officers, the same one who would later club him on the head with a gun. Wilson said the detective told Ferro and Mulvaney that when they got to the lockup they should have Wilson put in an occupied cell, so it could be said later that other prisoners had caused his injuries.

If that plan existed, it ran into a hitch when the lockup keeper at 11th and State refused to take custody of Wilson, not wanting to be held responsible for his injuries. Police procedure dictated that Ferro and Mulvaney should then take Wilson to a hospital for treatment. Patricia Crossen, a nurse who was working in the emergency room at Mercy Hospital, testified that Ferro and Mulvaney entered at about 11:40 PM, saying that they had come just for the paperwork, that if Wilson knew what was good for him he would refuse treatment. Crossen said that Wilson did initially refuse treatment, but changed his mind when a black orderly assured him he had the right to be treated. Wilson wended up being examined by Dr. Geoffrey Korn, who testified that, just as he was about to suture a wound in Wilson's head, Officer Mulvaney pulled out a gun. Korn refused to treat the prisoner while the gun was out and walked out of the room. After being left alone with Ferro and Mulvaney in the examination room, Andrew Wilson decided to refuse treatment, signed a statement to that effect, and was returned by paddy wagon to the lockup at 11th and State.

The following morning, Wilson was taken to 26th and California for arraignment and admission to Cook County Jail. Ordinarily jail authorities take only a mug shot of an arriving prisoner. In Andrew Wilson's case they took pictures of his whole body so as not to be blamed for his injuries. The following day, Dale Coventry, a public defender appointed to defend Wilson, arranged to have more pictures taken of the

prisoner, paying particular attention to Wilson's ears, chest, and thigh.

Blowups of the Coventry photos were the most troubling evidence against Commander Burge. The chest shots showed marks where Andrew Wilson said he had been burned against the radiator. A picture of his thigh showed a very large burn mark as well. The shots of the ears, however, were the most curious: they showed a pattern of U-shaped scabs that seemed inexplicable unless one believed that alligator clips had indeed been attached to Wilson's ears.

The cross-examination of Andrew Wilson by William Kunkle, the policemen's attorney, revealed that the police also believed that those U-shaped scabs had come from an alligator clip. In Kunkle's version, however, there was no electrical current: he wanted the jury to believe that Andrew Wilson had found a roach clip between the time he left Area 2 and the time he entered Cook County Jail and that he had placed it on his ears and nose in order to support his cock-and-bull story that he'd been subjected to electrical shock. Kunkle claimed that Wilson had gone to this extreme because he realized he had confessed to a death-penalty offense and he needed to do something to have that confession suppressed.

Kunkle appeared absolutely convinced of the righteousness of his cause as he began his cross-examination of Wilson. The former prosecutor began by asking detectives O'Hara and McKenna to stand up (McKenna and O'Hara had been the first interrogators of Wilson, at least in the Police Department's version of events, and they were the authors of the "Cleared and Closed" report on the case). Kunkle asked Wilson if either of the two detectives had ever laid a hand on him. Wilson said no. (Wilson's attorneys were arguing that O'Hara and McKenna were the nice guys in a good guy-bad guy team, that the two men had taken Wilson's statement but had chosen to overlook and cover up his torture.) Then Kunkle went to work on the character of Andrew Wilson, trying to change the jury's impression of him from victim to predator, from a bloodied and burned human being to a man who made his living with a gun.

Q: Mr. Wilson, between August of 1981 and your arrest on February 14 of 1982, did you have any?

A: No.

Q: Were you doing any kind of work to support yourself?

A: On advice of my counsel I am not going to answer that ... on the grounds that it might incriminate me.

Q: How were you getting money during that period of time?

A: ... On the advice of my counsel I'm not going to answer that on the grounds it might incriminate me.

Q: ... Mr. Wilson you testified on direct that you went to Mosely [school] for being truant, but you didn't recall playing hooky, is that right?

A: Yes.

Q: Did they teach you any reading at Mosely?

A: No.

Q: What did they teach you at Mosely?

A: How to fix shoes.

Q: Did you ever get a job fixing shoes?

A: No.

Q: Did you ever have a job of any kind?

A: Yes.

Q: When?

A: I don't know what year. I was washing dishes.

Q: When was that?

A: In the 70s.

Q: How long?

A: I don't know.

Q: A month, a year, ten years?

A: Oh, I don't know about—probably a month.

Q: Any other jobs?

A: I paint.

Q: Painted?

A: Yes.

Q: When did you paint?

A: In the 70s.

Q: ... How many painting jobs did you have?

A: Only one.

Q: Any other jobs?

A: No—yes, working at the Warner's Drugstore.

Q: When was that?

A: I think it was in the 70s.

Q: How long?

A: It didn't last long, maybe a week or so.

Kunkle's cross-examination was quite theatrical. When he tore open an envelope, you could hear the rip from one end of the courtroom to the other. He tossed guns onto the defense table almost carelessly. He came across as superior, even arrogant, and Wilson seemed cowed at times, hostile at others.

Kunkle got Wilson to admit he had seen roach clips in various jails and prisons. And Wilson changed a small detail of his story: it suddenly came to him that he had been wearing boxer shorts when he was arrested, not long underwear; that admission might affect the jury's belief in his claim to have been burned on the thigh by the radiator. (The police and the city contested not the existence of the thigh burn, but the time at which it was received; Wilson might have received it, for example, the day before he was arrested.) Wilson also claimed that when an assistant state's attorney and a court reporter arrived to take his confession on February 14, he had told both men that he had been tortured; both men would later take the stand and say they had been told nothing of the sort. Wilson claimed he had never been read his rights; the statement recorded that day, however, opens with the state's attorney reading the Miranda litany.

Mercy Hospital documents indicate that when Wilson first arrived at the emergency room, he said that he had received his injuries after falling outside the police station (the documents also indicate that the policemen present were encouraging Wilson to refuse treatment); on the witness stand, however, Wilson denied making any statement about falling.

Kunkle also raised questions about the allegation that Burge had put a gun in Wilson's mouth. If it had happened in the line-up room at Area 1, as Wilson said it did, Burge would have had to have been ex-

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tremely reckless, as anyone on the other side of the one-way mirror would have been able to witness the act.

Under Kunkle's questioning, Wilson admitted that in earlier testimony he had claimed that one of the cops at Area 2 had burned him with a cigarette, and that he had omitted mention of that burn this time around. Wilson claimed he had not mentioned it because the burn was on his shoulder, and his shoulder bore a tattoo, and he knew that juries generally do not like tattoos. Kunkle asked Wilson exactly what his tattoo depicted. Wilson said it consisted of a rose, a noose, and two shovels, that it had been done by a jailhouse artist, and that it had absolutely no significance.

Omitting mention of the cigarette burn in order to hide his tattoo seemed to be about the only attempt Wilson had made to refine his performance for the jury. He was sometimes short-tempered, sometimes sullen, and his posture conveyed the impression that he was constantly ready to duck an incoming punch. He referred to a court reporter as "the pornographer" and to various policemen as "the heavy-set stud," the "young stud," and the "blond-haired young dude." A witness trying to impress the jury might have cried at the points where Wilson choked up; Wilson asked for a recess, as if he were too proud to cry in public.

Commander Burge, on the other hand, sat tall and erect and seemed completely at ease on the stand. At one point, when the judge and the lawyers retired for a "sidebar"—a private conference out of the jury's earshot—the blond commander conversed with the U.S. marshal, an attractive young woman, and he laughed, seeming unthrea-

tened, almost unbothered by the proceedings. During another sidebar he joked with a TV courtroom artist who sat a few feet away, motioning as if he could hold back a double chin. Burge is the first to admit that he is not in peak physical condition; in one deposition he described himself as fat, and when I asked him to describe himself during the course of an interview he said, "Overweight. I'm six-foot-one, hog-headed, red-faced, about 40 pounds overweight, and not in as good a shape as I would like to be in." He defined "hog-headed" as having a round face and a large head.

Kunkle took Burge through each of Wilson's charges, which made for a series of forthright denials. The attorney then asked the commander his net worth, which would become a factor in assessing damages if the jury sided with Wilson. Burge, who has never married and who has no dependents, said that his assets were minimal: he owned neither house nor car, had some equity in his boat, a few thousand in a money market account, a few thousand in the police credit union, a few thousand in debts. He concluded that his net worth was minus \$17,000. Kunkle walked him through his military career, asking him about his decorations; Burge listed them matter-of-factly, making no great attempt to milk them for the sympathy they could engender. Kunkle asked about his police career, and Burge sketched it in with no elaboration, making no mention of his department commendations.

The bulk of Burge's testimony dealt with the manhunt for the killers of Fahey and O'Brien, the arrest of Andrew Wilson, and Wilson's passage through Area 2. In Burge's version, Wilson's only injury was the scratch on his eye; he was not certain whether Wilson had the injury before the police found him or if he sustained it when the police, applying reasonable force to a dangerous man, shoved Wilson to the floor to handcuff

him at the moment of his arrest. Burge maintained that he had instructed his men to treat Wilson "with kid gloves"; that Wilson was taken directly to an interview room at Area 2; that he gave an oral statement admitting his role in the shootings to detectives O'Hara and McKenna between 7:00 and 7:40 AM; and that he gave a written statement 11 hours later.

Wilson's attorney, Flint Taylor, tried to disturb the cool-headed, professional image the commander projected by addressing him as "Defendant Burge." Taylor's cross-examination established that Burge was familiar with electrical devices operated by a crank, having used field telephones during his service in Vietnam. When questioned about the investigation of the murders of Fahey and O'Brien, Burge said that he had gone without sleep for five and a half to six days, that he drank a lot of coffee, that he smoked two packs of cigarettes a day, and that it was the biggest investigation he had ever handled. He said that the arrest had not been handled as he would have liked to have done it: just before it happened, Deputy Superintendent Joseph McCarthy had shown up with about five men from Gang Crimes South, the same unit that Fahey and O'Brien had been assigned to, and announced that they were going to be in on the action. Burge thought that it was a bad idea for friends and comrades of the dead officers to participate in the raid, but since McCarthy was deputy superintendent, Burge felt he had little choice in the matter.

Burge's most peculiar admission, however, was that he had personally interviewed Sebastian Ragland, a man who confessed to the killings of Fahey and O'Brien not long after the shootings; Ragland had had nothing to do with the crime, and Detective O'Hara, who first interviewed him, told Burge that Ragland would have confessed to killing Cock Robin. Burge interviewed him anyway. Yet when Wilson was arrested,

Burge said, he let the men under him question the prisoner and never even entered the interview room. Burge maintained that he had seen Wilson only once all morning—when the prisoner was taken to the bathroom and was escorted past the commander's open door. The commander said he heard no screams, no cries for help, and that at any given moment, ten to a hundred other policemen would have been on the second floor of Area 2, ostensibly within hearing distance of such screams and cries.

Detective Yucaitis followed Burge to stand and was equally personable and at ease. He denied striking, shocking, beating, or kicking Wilson, and said that his only role was to drive Wilson back to Area 2 after the arrest and to stand guard outside the interview room where Wilson was held.

There was some dispute about exactly which interview room Wilson had been taken to. Burge initially indicated that Wilson had been taken to Interview Room Number 1, but later said he could not remember which room the prisoner had been taken to. Other detectives maintained that Wilson was in Interview Room Number 2, and that the radiator in that room had never worked.

In support of the theory that Wilson was not burned by any radiator, Kunkle produced Dr. Raymond Warpeha, a bald man with a thick mustache and glasses, director of the burn center at Loyola Medical Center and chairman of the Division of Plastic and Reconstructive Surgery at the hospital. On the witness stand Warpeha claimed to have diagnosed and treated 6,000 to 7,000 burns, 3,000 of them major. In preparation for the trial, he said that he had seen photos of the radiators at Area 2, reviewed Wilson's medical records, and examined the prisoner. The records seemed to reflect some disagreement on the part of the various medical personnel who had examined Wilson at Mercy Hospital and at Cook County Jail. Some had diag[...]

marks on Wilson's chest as burns, while others had referred to them as abrasions. Warpeha concluded that the doctors and the nurse who had diagnosed Wilson's injuries as burns were mistaken; the wounds on Wilson's face, chest, and thigh, Warpeha said, were friction abrasions—wounds caused by friction rather than heat (e.g., a "rope burn" or "floor burn"). Such wounds are dry, do not blister, and do not produce fluid. Analyzing the photographs of Wilson's injuries from the jail, Warpeha said he saw none of the blistering that should have occurred had the prisoner been burned by a hot object.

Warpeha's diagnosis was important because it allowed the jury to consider the possibility that Wilson's chest had been scratched and not burned, and that the scratches had occurred when Wilson struggled with Officer Fahey, or when he crawled upon the car to shoot Officer O'Brien, or when he rode in the paddy wagon from Area 2 to the lockup at 11th and State.

Warpeha was an eminently qualified witness, but a stranger to humility. At one point in his testimony he seemed to indicate that he believed there were only three physicians in the city who could diagnose burns properly—himself, of course, among the trio. He stated that he charged the defense \$500 an hour for his services and that he had thus far earned more than \$12,000 on the case, a statement that caused a great stir among the court bulls, who realized that, as taxpayers, they were footing the bill.

Wilson's attorneys had also presented an expert witness, Dr. Robert Kirschner, deputy chief medical examiner of Cook County. Kirschner has an unusual countenance—a beard, no mustache, and dark, deep-set eyes—and he was an unusual witness. As a forensic pathologist employed by the county, he spends a good portion of his time working with policemen and testifying for

"He plugged it into the wall.... He took it and he ran it up between my legs, my groin area, just ran it up there very gently.... Then he jabbed me with the thing and it slammed me.... Then I fell back down, and I think that's when I started spitting up the blood and stuff."

the state. His job, day in and day out, is to determine what weapons, devices, or accidents could have caused various injuries or death, and as a result he is recognized as an expert in the identification of burns. Furthermore, in his spare time Kirschner does human rights work, and he has taken part in investigations sponsored by Amnesty International, Physicians for Human Rights, and the American Association for the Advancement of Science in Argentina, Kenya, Czechoslovakia, and the West Bank. He serves on the clinical committee of the Uptown-based Marjorie Kovler Center for Survivors of Torture and teaches other physicians how to diagnose and evaluate victims of torture.

In a deposition taken five days before the trial started, Kirschner explained that he had become involved in the Wilson case when John Stainthorp, having heard that the doctor was an expert on torture, called the medical examiner's office and asked Kirschner to look over Wilson's file. "I said I would review it," Kirschner said, "and I told Mr. Stainthorp again that I was very skeptical because I have been around the medical examiner's office for ten years, lot of close contact with the police, and I think I have a fair idea of what goes on in the police stations when people are in custody... and I said I just never heard of anything like this in Chicago, and I said that it does seem very unlikely to me that this would be the case. But Mr. Stainthorp sent me the medical records and portions of Andrew Wilson's

deposition... and I must say I read it... and I called Mr. Stainthorp and said, "This guy has been tortured. I think there is a very high degree of medical certainty to say this man has not only been beaten and/or kicked, which, let's face it, occurs in custody, but that this man has received electric shock."

In that deposition, Kirschner went on to say that Wilson's description of what had happened to his body and his difficulty in telling the story without breaking down were consistent with the experiences of others who had been tortured with electric shock. "These are not the kinds of things that are faked," Kirschner said. "This is not general knowledge... or things you pick up through your general reading.... This is not information that I would expect to be floating around the prisons, passed from one prisoner to another.... These are things that you have to delve into Amnesty International reports or other human rights reports. These aren't the sort of things you pick up on the newsstand or [are] going to find in medical or law journals for the most part."

Kirschner was clearly a very dangerous witness, far more dangerous than even Wilson himself, and Kunkle did not want the doctor's opinions to be heard in open court. With the jury out of the courtroom, Kunkle argued against allowing Kirschner to testify as an "expert witness" on the subject of torture. He said that the federal court had never recognized a torture expert and had never

recognized torture as a field of scientific expertise; that even those working in the field had written that there had not been enough study done to draw a scientifically sound profile of torture victims. Furthermore, Kunkle argued, Kirschner had no personal experience with the machinery of electroshock and had never seen anyone who had had an electrical device attached to his or her ears. Judge Duff said it was "a tough call." He professed admiration for Kirschner's work and at one point suggested that more attention be paid by Kirschner's human rights colleagues to abuses committed by the British in Northern Ireland. In the end, however, the judge sided with Kunkle. Kirschner was allowed to testify as an expert in identifying burns but was not allowed to say anything about torture or about the credibility of Andrew Wilson's account. Duff also ordered that Kirschner's curriculum vitae should be purged of any mention of torture and human rights activity before it was submitted to the jury.

Kirschner's testimony stood in stark contrast to Dr. Warpeha's. The deputy chief medical examiner said that when forensic pathologists set about determining whether a wound is a burn or an abrasion, one key factor is the border of the wound. An abrasion, Kirschner said, is always accompanied by a scraping of the skin, while a burn is marked by very sharp margins. Kirschner, pointing to photos of Wilson's wounds, stated that the chest, thigh, and cheek injuries had very sharp margins, that there was no evidence of scraping, and that there was also evidence of blisters. The wounds, he said, were therefore second-degree burns.

In making his diagnosis in his own study, Kirschner had been viewing eight-by-ten-inch photos of Wilson's injuries, and it was only just before he entered the courtroom that he saw the same pictures blown up to two feet by three feet. He carried a magnify-

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ing glass with him, and in the course of explaining that the wounds on Wilson's ears were punctate abrasions, he noticed that in one of the enlargements one mark was both darker than the others and slightly out of line. While on the stand he came to the conclusion that that particular mark was probably not a punctate abrasion, but a spark burn. This casually delivered remark was particularly threatening for the defendants. Their roach-clip defense could support abrasions. It could not withstand a spark burn.

When Kunkle got the chance to cross-examine Kirschner, he worked up a great deal of indignation, mocking the doctor's 11th-hour magnifying-glass discovery. He asked Kirschner how many live burn patients the doctor had examined. Kirschner, who works on the dead, said he had seen fewer than a dozen, and that only two or three of those had radiator burns. Kunkle tried to raise suspicion about Kirschner's objectivity by working on the fact that the doctor had waived his usual fee for serving as an expert witness; the implication Kunkle wanted to impart was that the doctor had some vested interest in the case, that Warpeha was more trustworthy because he had to be paid.

In the end, however, after testimony and/or a deposition from two expert witnesses, one emergency-room nurse, and four doctors who had seen Wilson between February 14 and February 17, it was difficult to imagine what medical conclusions the jury would come to. The nurse clearly said she saw burns, the doctors recorded burns, lacerations, and/or abrasions, and the two experts were poles apart.

In and around Wilson's account, the policemen's stories, and the medical testimony, there was also a case building against the city of Chicago. Wilson's suit alleged that there was a custom, policy, or practice of allowing police to "misreat those

wise allegedly connected with the shooting or killing of Chicago police officers" and allowing the police to "exact unconstitutional revenge, punishment, and retribution." To that end, Wilson's attorneys produced four victims of the Police Department's enthusiasm in searching for the killers of Fahey and O'Brien.

The first victim presented was Mrs. Julia Davis, a middle-aged black woman who seemed depressed, intimidated, and out of her element when she took the stand. She testified that during the canvass of the neighborhood around the site of the shootings, police had broken down her door, ransacked her bedroom, and seized her son, Larry Milan, hitting him with a billy club and a flashlight in the process. She said that her son, who died in 1984, was held for three days and came home with bruises on his back and legs.

James McCarthy, the city corporation counsel, went after Mrs. Davis by asking if this was the first time the police had been to the house. It wasn't. Larry Milan was a prominent member of the Black Gangster Disciples and well-known to the police. "Isn't it true," McCarthy asked, "that your son spent time in prison for arson?" Mrs. Davis said it was true, although it seemed to have nothing to do with the matter at hand. McCarthy went on to ask why Mrs. Davis had never filed a complaint against the officers who'd allegedly beaten her son and broken down her door. With no sense of outrage in her voice, Mrs. Davis replied, "I thought the police could do anything they wanted."

Roy Wade Brown, a stocky, well-dressed 26-year-old with a shaved head and a gravelly voice, also testified against the city. Brown said that he too had been a member of the Black Gangster Disciples, that he had put that life behind him, and that he is now studying to become a minister and running a store that sells candy, potato chips, and chili. Brown testified that on the day Fahey and O'Brien were shot, he was in Mrs. Davis's house, watching TV with Larry Milan, when the police broke through the door. He said that he was taken into custody; that one of his interrogators put fingers in his ears and applied pressure; that

head, cutting off his air supply; that his interrogators put his finger in a bolt cutter and threatened to cut it off; that they hit him repeatedly on the thighs with a paddle; and that he was taken to the roof of the police station and was told he would be thrown off if he didn't tell what he knew about the shootings of Fahey and O'Brien. He didn't know anything. He said he was so frightened, however, that he would have done anything to appease the police, and so he gave his interrogators the name of a member of a rival gang.

Maureen Murphy, who was defending the city along with McCarthy, cross-examined Roy Brown. She asked if Brown had not pleaded guilty once to intimidating a witness; if he had not had to leave Chicago for two years because he had hit an El Rukn with a bat; if his friend Larry Milan had not been arrested for raping a 16-year-old girl the day before he and Brown filed a complaint against the police for being abused. She asked Brown if he was willing to lie to get even with an enemy, as he had apparently done, she said, when he gave the rival gang member's name to the police; her implication, of course, was that he would lie again, this time to get even with the police.

It often seemed there were two cultures in conflict in the courtroom. One was black, poor, given to violence, and often in trouble with the law. The other was white, respectable, given to violence, and in charge of enforcing the law. The city's attorneys wanted the jury to doubt the victims because they had criminal records or associations. Wilson's attorneys wanted the jury to conclude that in February 1982, the police could and did run amok. Ideally, some impartial arbiter might have sorted out the claims before they were aired in federal court. In this city, however, the agency established to fill that role is the Police Department's Office of Professional Standards, an office that does little to contradict the notion, voiced by Mrs. Davis, that the police can do anything they want. In 1982 the OPS rejected 96 percent of the complaints filed against policemen, and there has been no substantial improvement since. One can conclude either that the overwhelming majority of citizens

does not work.

Andrew Wilson's OPS case is a prime example. OPS investigations usually begin when a citizen files a complaint against a policeman. Wilson's case, however, was opened not by citizen Wilson, but by order of Police Superintendent Richard Brzeczek, a fact that should have raised the case to a position of prominence. Brzeczek ordered the head of OPS to open a file after receiving a letter from Dr. John Kaba, medical director of the hospital that serves the inmates of Cook County Jail. Kaba listed Wilson's injuries, mentioned the allegation that Wilson had been shocked, and urged that Brzeczek conduct a "thorough investigation."

The OPS investigation was handled by Keith Griffiths, a pale, blond-haired man with a plump face, a mustache, and a demeanor that might lead a stranger to think he was a librarian or an accountant, not an investigator. On the witness stand Griffiths explained that his supervisor had handed him the Wilson file on August 22, 1983, a year and a half after Brzeczek ordered the OPS to investigate. Griffiths testified that at that point, the file contained a few letters and some transcripts of a hearing at which Andrew Wilson had told the story of his arrest and interrogation. The file did not contain the name of the person who had assembled the material, or even an indication that someone from OPS had actually done any investigating. Griffiths testified that his supervisor told him to "write a summary," which according to OPS procedure meant that he should do no more investigating, that he should simply read the file's contents and come to a judgment about the case. No one ever told Griffiths to give the case high priority, and so it became a back-burner assignment. Griffiths handed in his three-page summary 706 days after receiving the file, and in all that time no one from the department asked him a single question about it. On the basis of the file's contents, Griffiths recommended a finding of "not sustained," and so, three years after Andrew Wilson was arrested, Burge and his colleagues were cleared. 19-74-4048(FBI)-238

Police Superintendent Brzeczek not only referred the matter to OPS, but also

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sent a copy of Dr. Raba's letter to State's Attorney Richard Daley. Brzeczek wrote that he had publicly stated that he would scrupulously investigate every allegation of police misconduct, but he was wary of jeopardizing the then-pending murder case against Andrew Wilson and so was asking for guidance as to how to proceed. When he took the witness stand in Judge Duff's courtroom, Brzeczek testified that Daley never replied to the letter.

I asked Mayor Daley to comment on that charge a few weeks ago. Through his press secretary, he said that he had responded not by writing but by initiating an effort to investigate Wilson's complaints through the state's attorney's special prosecutions unit. That effort was thwarted, Daley said, when Wilson and his attorney, public defender Dale Coventry, declined to cooperate.

When I checked that with Coventry, who now supervises multiple-defendant homicide cases for the public defender's office, he told me that he would never have allowed the state's attorney's office to have access to his client. "The only thing I would expect from any investigation they did would be a total whitewash," Coventry said, "and anything they learned would be used by the prosecution against my client. I was on the Murder Task Force [in the public defender's office] for eight years with about 15

attorneys, and we shared experiences and ideas, and I do not know anyone who worked on our side of the issue who didn't see things the same way. I was in court yesterday with someone who was thumped by the cops. It is just standard operating procedure. As the defense attorneys frequently say, the judges pretend to believe the police, and they don't, and the police get up there and tell their stories and nothing is ever done on these things."

In closing arguments, Wilson's attorneys went back to their opening theme, reminding the jury that the case was not about the murder of the two policemen, that it was not about whether Andrew Wilson was a nice man, rather it was about whether the prisoner had been tortured and deprived of his constitutional rights after his arrest. John Stainthorp pointed to some of the contradictions in the policemen's defense. Several cops had said the radiator in Interview Room 2 didn't work; Commander Milton Dear, the man who was Burge's supervisor, had said that the radiator worked just fine. Burge had maintained that he had never even entered the interview room where Wilson was held; another detective had said in a deposition that Burge had. Jeffrey Haas, summing up the case against the city, argued that the city had done nothing to investigate the brutality allegations. He pointed out that when the black community began to protest the police excesses, Superintendent Brzeczek had called a meeting, not of the white cops who were respon-

sible for the excesses, but of the Police Department's black commanders, who might have been able to cool tempers in their community. Flint Taylor argued that "just because [a policeman] thinks Andrew Wilson deserves the electric chair doesn't mean [he] can start the process." He went on to ask why someone like Patricia Crossen, the white nurse who'd treated Wilson in the Mercy Hospital-emergency room, would come in to testify for a convicted cop killer if she wasn't telling the truth, and why, if Wilson was going to make up a story to get his confession thrown out, he would concoct something as bizarre as a shock box and alligator clips—why wouldn't he simply say that he had been beaten up?

Wilson's attorneys also raised a major question about the scenario presented by the police. Burge and his colleagues maintained that Wilson had given an oral statement of confession at 7:30 in the morning, shortly after his arrest; the implication was that from that point on there would have been no reason to torture him. But if Wilson did confess at 7:30 AM, why had the police waited ten and a half hours to obtain a written and signed statement? A written and signed statement is an invaluable weapon in the hands of a prosecutor. Yet even though an assistant state's attorney was present at Area 2 from 8:30 in the morning, no one made any attempt to get Wilson's written statement until 6:00 that night. Surely the police knew that each passing minute offered the possibility that Wilson might change his mind, or that a lawyer might

show up and advise him to remain silent.

Jim McCarthy, summing up for the city, argued that if the city had a policy of abusing people suspected of shooting policemen, then everyone would have abuse Andrew Wilson. Yet the keeper of the lockup hadn't; he first refused to accept him until he had had medical treatment, and then he placed the prisoner in a front cell so he could be watched. If the city had such a policy, McCarthy said, then Superintendent Brzeczek would have done nothing upon receiving Dr. Raba's letter. Instead Brzeczek opened an OPS investigation and wrote to State's Attorney Daley alerting him to the allegations and asking for direction.

Kunkle, closing for the individual policemen, said that the only thing he and the People's Law Office agreed on was that Andrew Wilson was entitled to the protection of the Constitution. With Wilson's guns on display, Kunkle went on to point out that Andrew Wilson didn't start getting concerned about constitutional rights until February 14, 1982, when "he didn't have his .38 anymore to make him seem like a big man," and after he had already deprived officers Fahey and O'Brien of the basic human right to life. Kunkle asked whether the black box was and why Wilson's first attorney hadn't asked the state's attorney for a search warrant to go find it. He argued that Wilson's attorneys had the burden of proving where Wilson's injuries had come from and that they hadn't done it; that the "scratches" (not burns) on Wilson's ches-

could have come from diving across the car to shoot O'Brien. Kunkle ridiculed Wilson's allegations of abuse, citing particularly the charge that one of the officers in the paddy wagon had pulled on Wilson's penis; he asked the jury to imagine the likelihood of a cop pulling on a prisoner's penis in front of six or eight other cops. Kunkle argued that Wilson was quite capable of dreaming up a complicated story, that Wilson had had all night to put it together, and that it was consistent with his nature as a plotter—look at the way he had approached Mrs. Downs disguised as a postman. Kunkle concluded that Wilson had a right to the protection of the Constitution, but no right to be believed.

After closing arguments were finished, Judge Duff instructed the jury in the law. Duff had dismissed the charges against Detective McKenna midway through the trial. He explained to the jury that the three remaining policemen—Burge, Yucaitis, and O'Hara—each faced two counts. The first count charged that they had abused Wilson, the second that they had engaged in a conspiracy to do so. Each policeman, Duff said, would be guilty under the first count if he participated in the physical abuse or if he was aware of it and did not assist or protect the plaintiff. O'Hara, for example, would be guilty if the evidence showed that he understood that Wilson had been tortured and covered up the fact in his reports. On the second count, any two or all three policemen would be guilty if the jury decided there had been some common and unlaw-

ful plan to abuse Wilson.

And so the jury retired. Afterward, individual members said that they were surprised to see that the people they had shared so much with for seven weeks could have such divergent opinions about the case. Four times they sent a message to the judge indicating that they were at an impasse. Ultimately, after ten hours of debate, they voted to clear O'Hara and Yucaitis on count one. On everything else, they remained deadlocked.

Assured that further debate would be useless, Judge Duff declared a mistrial on the unresolved charges, which meant that the whole proceeding would have to be done again. He thanked the jury members for their hard work and sent them home.

They left the federal building not knowing how much they didn't know about the case. They never learned, for example, that in the closing days of the trial, Wilson's lawyers had come into possession of evidence so compelling that Judge Duff referred to it as "a hand grenade."

Shortly after the start of the trial, the People's Law Office had begun to receive anonymous letters from someone who seemed to have inside knowledge of Area 2. The first letter alleged that during the investigation of the Fahey and O'Brien murders, several men picked up by the police were beaten up in police headquarters at 11th and State, in the presence of an assistant state's attorney and two of the highest ranking policemen in the department. The

letter writer went on to accuse Mayor Byrne and State's Attorney Richard Daley of ordering that "numerous complaints filed against the police as a result of this crime not be investigated," and the source alleged that the order "was carried out by an OPS investigator . . . who is close to Alderman [Ed] Burke." (Daley and Burke vehemently deny the charge. Byrne did not respond to a letter delivered to her home; the investigator—not Keith Griffiths—no longer works for OPS and did not respond to three phone messages.)

The second letter arrived in a Police Department envelope. It said that detectives O'Hara and McKenna had had nothing to do with the incident and that Andrew Wilson was beaten after he confessed, not before.

It was the third letter that produced the hand grenade. "I advise you to immediately interview a Melvin Jones who is in the Cook County Jail on a murder charge. . . . When you speak with him compare the dates from 1982 and you will see why it is important."

Wilson's attorneys found Jones, and he told them that he had been arrested on a murder charge on February 5, 1982, four days before Fahey and O'Brien were shot and nine days before Andrew Wilson met Jon Burge. Jones said that in an attempt to get him to confess, Lieutenant Burge shocked him with an electrical device on the foot, penis, and thigh. Jones said he had told the story seven years earlier at a hearing on a motion to suppress his confession, and Wilson's lawyers located a copy of the tran-

script:

Q: Have a seat, Mr. Jones. What if anything happened after he placed the electrical device on you, or on your foot?

A: When he put it on my foot, I started hollering, I made a statement to him, "You ain't supposed to be doing this to me."

Q: And what happened then?

A: He told me that he ain't got no proof, you know to this, and that's when he looked over to [another officer].

Q: When he looked at [the other officer], did he say anything to [him]?

A: Yes, he did.... He said, "Do you see anything?" And [the other officer] looked up at the ceiling and told him he didn't see nothing. . . . Then he said, "You see, it's just me and you," you know. He says, "No court and no state are going to take your word against a lieutenant's word."

Later in the transcript, Jones says that Burge asked him if he knew two men with the nicknames Satan and Cochise:

A: I told him I have heard of them; I didn't know them personally.

Q: What if anything did he say to you at that time?

A: He said, they both had the same treatment, you know. He

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was telling me what kind of guys they was as far as supposed to be being, you know, kind of tough or something, you know. They crawled all over the floor.

Armed with the Jones revelations, Wilson's lawyers came to court hoping to break the case wide open, but knowing that they had a time problem. The tip from their anonymous source arrived about a week after Wilson's attorneys had finished presenting their evidence, so in order to get Jones's allegations aired in court they would have to convince Judge Duff to let them either reopen their case or present the new evidence in the rebuttal portion of the trial.

Duff conceded that the evidence was "awesome." He also felt, however, that it required substantial investigation and development. The trial was already running well over its allotted time (it had been scheduled for three weeks and would run seven), and Duff, who prides himself on his case management and is recognized for it, blamed much of the delay on Wilson's attorneys. Ultimately the judge said no, they could not reopen their case, and so the jury reured with no knowledge of Jones, Cochise, or Satan.

I report this as if it were simply a legal

ruling, made in a calm moment after the weighing of various legal arguments, and perhaps that is indeed how Judge Duff came to his decision. It is difficult to imagine, however, how the judge could have divorced himself from the emotional heat in the courtroom. The relationship between the judge and Wilson's lawyers had deteriorated almost from the first day of the trial. That deterioration escalated when the judge began to suspect that the People's Law Office was disobeying his orders not to talk to the press about the case, a suspicion that arose after *Chicago Lawyer* published an article containing photographs of Wilson's injuries and a portion of Dr. Kirschner's deposition. By sheer coincidence, the article appeared in the same issue that carried the survey results rating Duff as the worst judge on the federal bench. From that point on, Duff seemed very concerned with his press coverage.

The concern became part of the court record in the trial's third week, when, with the jury out of the courtroom, Wilson's attorneys alleged that Duff had referred to their client as "the scum of the earth." The lawyers maintained that, in an off-the-record conference, the judge had said, "This is a case where it will be determined whether the constitution will protect the scum of the earth against governmental misconduct." The judge was horrified and claimed that he had said "each of you feels that the other is the scum of the earth. I'm going to let the jury decide."

"I can tell you that tonight on the ten o'clock news there will be a news piece that says the judge called the plaintiff the scum of the earth," Duff said. "... You're going to have a headline in the paper today, maybe not a front-page headline, maybe not a banner headline, but you're going to have big news stories that say that Mr. Haas said that the judge called the plaintiff the scum of the earth. ... Now you have done it. ... You all know that I have very recently been characterized as dumber than a box of rocks and prejudicial and a lot of things. ... What you have just done is attack the integrity of this trial and attack the integrity of this court in public, and it's very, very serious. It's heartbreaking, as a matter of fact. ... I feel like I have been bludgeoned. ... It is disgraceful, an injury from which I doubt this court will recover."

The judge demanded an apology and Haas gave it; the judge then chastised Haas for issuing his retraction after the media were gone for the day.

Duff's nightmare—a "scum of the earth" headline and story—never materialized, but his irritation with Haas, Taylor, and Stainthorp surfaced daily. By the end of the trial on March 30, he had chastised them for shuffling their feet, for their facial expressions, for having their hands in their pockets, for leaning on the lectern. By April 12 he had held Taylor in contempt four times and Haas once.

It came as no surprise then when the People's Law Office filed a motion arguing

that they could not possibly get a fair trial from Judge Duff the second time around. The motion for recusal charged that Duff had suggested that Wilson was under the influence of drugs when he broke down while describing his experience at Area 2; that the judge had incorrectly assumed Wilson was a gang member; that he had repeatedly referred to Wilson, the plaintiff, as the defendant; and that he had called the prisoner "the scum of the earth." Wilson's attorneys also argued that the judge's rulings showed extreme prejudice in favor of Kunkle's clients. The lawyers cited several examples, among them an occasion when Taylor used a document that Kunkle contended had been declared off-limits by the judge in an earlier ruling. The judge agreed with Kunkle, said that he had even issued a written ruling on the matter, and indicated that because of Taylor's error he would entertain Kunkle's motion for a mistrial. Later it became apparent that Duff had never ruled on the matter. In another instance, Duff found Taylor in contempt for using a document that the judge believed he had ruled off-limits; it turned out that during pretrial negotiations, all parties in the case had agreed in writing that the document was admissible.

On April 11, after a rambling, emotional morning session that bore more resemblance to a family argument than to a legal proceeding, the judge said that he was not in any way biased against Andrew Wilson and ruled that he would not step down. The

retrial was scheduled for mid-June.

In preparing for the second trial, Wilson's attorneys began to follow up their leads from Melvin Jones. They found Satan in Stateville. His real name is Anthony Holmes, and ironically his arrest is mentioned in one of Burge's Police Department commendations, a commendation that cites Burge for "skillful questioning." Holmes told the People's Law Office that Burge had used the black box on him in 1973.

Melvin Jones had been represented by an attorney named Cassandra Watson, and she in turn led Wilson's lawyers to a man named Michael Johnson, incarcerated at Menard. Johnson said that Burge had shocked him in the testicles, that he had filed an OPS complaint and that the FBI had investigated his charges, but that both actions had come to naught.

Those contacts led to others. Wilson's attorneys found a man named George Powell, resident in Danville Penitentiary, who said that Burge had shocked him in the chest and stomach with a cattle prod. Lawrence Poree, an inmate in Pontiac, told the attorneys that Burge had shocked him in the arm, armpits, and testicles; on another occasion years later, Poree said, Burge began another electroshock session with the words, "Fun time again."

Other men told of brutal treatment, naming not Burge but other Area 2 policemen. Gregory Banks, convicted of murder and armed robbery, claimed that three de-

Dr. Robert Kirschner, deputy chief medical examiner of Cook County, teaches other physicians how to diagnose and evaluate torture victims: "I think there is a very high degree of medical certainty to say that this man... has received electric shock."

tectives from Area 2 had beaten him with a flashlight, stuck a gun in his mouth, and, saying they had something special reserved for "niggers," put a plastic bag over his head. (Last month, the Illinois Appellate Court ordered that Banks deserved a retrial, citing the inconsistent stories told by the officers about how Banks sustained his injuries and the fact that the same officers had been accused of a similar modus operandi 13 months earlier—a fact that the Appellate Court believed should have been allowed into evidence in Banks's trial.) Wilson's attorneys also dug up some of the court file of a man named Darrell Cannon, who had been arrested five days after Banks by the same three officers. In an affidavit Cannon claimed that the policemen had addressed him as "nigger" when they put a pump shotgun into his mouth; that they had pulled his pants down to his ankles and shocked his testicles with a cattle prod; and that they had also put the cattle prod in his mouth. Cannon drew pictures to illustrate his story, and although they are crude, the detail in them is striking; in one illustration, in which Cannon is being shocked on the

genitals, he shows policemen standing on each of his feet to keep him from moving. His drawing of the cattle prod is remarkably similar to Wilson's description of the second device that Burge allegedly used on him.

The graphic stories of Banks and Cannon, however, were of little use to Wilson's attorneys. Given the limits of their lawsuit, they had to concentrate on the cases involving Commander Burge. Those cases, which included the names of five other detectives at Area 2, covered the years 1968 to 1982.

And Wilson's lawyers had two significant legal obstacles to overcome before they could use even those cases. First, Wilson's complaint alleged that Burge and his colleagues had abused people suspected of shooting policemen, and that the city had a policy of allowing such abuse. All of the alleged torture victims the lawyers had located had been charged with felonies, but only one, a man named Willie Porch, had been arrested in connection with the shooting of a cop. So Wilson's lawyers moved to amend their complaint. Duff, however, ruled against them. He believed that if he allowed

the new evidence to be heard, the proceeding would become a series of trials within a trial and that the whole process could well take a year. "In my opinion," Judge Duff said, "the allegations that have been made about Commander Burge are extremely serious. If true, they might very well require an investigation on the part of the U.S. attorney and/or the FBI." Duff said that he had in fact informed the U.S. attorney of the allegations, saying that if they were true, a federal investigation was warranted, and if they were false, then federal authorities should investigate whether Wilson's lawyers or those they had spoken to had engaged in a conspiracy "to suborn perjury and/or interfere with the process of this court."

Wilson's attorneys did not give up hope however, because they thought they might be able to work Melvin Jones into their case even though he had not been arrested for the murder of a policeman. The Federal Rules of Evidence usually forbid the use of prior crimes or actions to sully the character of the accused; the reasoning is that a man on trial for bank robbery should not be convicted of the robbery at hand simply because he has been convicted of some crime in the past. However, the rules allow such evidence to be introduced if it tends to prove facts at issue in the case, including motive, opportunity, intent, preparation, plan, knowledge, or identity.

This was the second obstacle that Wilson's lawyers tried to surmount: they

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theft, perjury, manslaughter, and blackmail. On March 13, 1987, he was arrested in suburban Harvey and charged with possession with intent to deliver cocaine. He eventually ended up in Cook County Jail on the same tier as Andrew Wilson, who was then awaiting the retrial of his murder case.

Coleman, who is white, claimed that a few days after he met Wilson, the black convict made two amazing admissions: he said that he had indeed killed the two police officers (a particularly stupid admission given that he was maintaining his innocence in his impending retrial), and he said that he had burned himself on the radiator in the interview room in order to make it appear as though his confession had been coerced. (Coleman offered no explanation for the pattern of scabs on Wilson's ears and nose.)

Coleman was an unbelievable witness to those who knew his record. The jury, however, did not know most of it, as in most circumstances legal precedent precludes the mention of convictions over ten years old. In order to convey to the jury that Coleman was always willing to make up a story, the People's Law Office paid for journalist Gregory Miskiw to be flown in from England. Miskiw was prepared to tell the jury this tale: In 1986, he was working in London as a reporter for the *Daily Mirror* when he received a call from Coleman, who was then living in Washington, D.C., under the name Clarkson. Coleman told Miskiw that he could prove that Lord Litchfield, a cousin of Queen Elizabeth, had been arrested

In the closing days of the trial Wilson's lawyers began receiving anonymous letters from someone who seemed to have inside knowledge of Area 2. The letters led to evidence that Judge Duff characterized as a "hand grenade"—but he refused to let the jury hear it.

for possession of cocaine on a visit to Washington the previous October. Miskiw flew to Washington and waited for Coleman to connect him with the police officer who would provide the documentation. The policeman never materialized. In the meantime, Coleman offered information about the sex life of British tennis star Kevin Curran. Miskiw investigated William Coleman instead and ultimately filed a story under the headline "Amazing Royal Smear of Billy Liar."

Wilson's attorneys were gambling, however, when they imported Miskiw. Kunkle and James McCarthy, the city's lawyers, seemed gleeful at the prospect of questioning a reporter who worked for a tabloid that regularly carried photos of bare-breasted women on page three (the copy that was passed around the defense table had the front-page headline "FURY OVER DOLLY WHOPPERS—SEX SLUR ROCKS BUSTY QUEEN OF COUNTRY MUSIC"). Judge Duff excused the jury, heard Miskiw's story, and allowed Kunkle some cross-examination. Kunkle asked if Miskiw had any personal knowl-

edge of Lord Litchfield or his habits; Miskiw said no. Kunkle asked if Miskiw had any personal knowledge about the sex life of Kevin Curran; Miskiw said no. It became apparent that although Miskiw's "Billy Liar" story was probably truthful, its contents were what courts call hearsay, not evidence. Miskiw left the city the following day, never having faced the jury.

In the meantime, the trial's bitter atmosphere continued. Wilson's attorneys helped organize an anti-Burge demonstration outside the Federal Building, risking a mistrial in so doing. Judge Duff cited them for contempt at least four times, and they began telling the judge that he was running "an Alice in Wonderland proceeding." In a sidebar on July 28, corporation counsel McCarthy suggested that he and Taylor should settle their differences with their fists. Taylor called Judge Duff a liar. Duff held Taylor in contempt and said it would cost him \$500. The following day, Taylor said, "I've had enough of this horseshit." Duff fined him another \$500. (In the end, although Duff had held Wilson's attorneys in contempt at least eight times in the two

trials, he delivered only three formal charges.)

The second trial came to an end after eight weeks. To everyone's surprise, the jury of six suburbanites debated for three days. When they ultimately emerged, they had a strange verdict. In deciding whether the city had had a policy of abusing people suspected of shooting policemen, the jury had been directed to answer three questions; for Wilson to win a judgment against the city, the three questions had to be answered affirmatively. (1) Were Andrew Wilson's constitutional rights violated on 2/14/82? The jury said yes. (2) Do you find that in 1982 the city had a de facto policy, practice, or custom whereby the police were allowed to abuse those suspected of killing policemen? Again, the jury said yes. (3) Do you find that Wilson was subjected to excessive force due to this policy? The jury said no.

The jury went on to clear Burge and his comrades of all charges.

On its face, the verdict makes no sense. The jurors seem to be saying that Wilson's rights were violated, but not by these policemen, that the city did indeed have a policy of abusing people suspected of shooting policemen, but that Wilson escaped that policy, although he was abused.

I called jury foreman Alan Gall for an explanation. In a tape-recorded interview the 28-year-old printer said that the jury had been deadlocked, "almost hung," but that the outcome was pretty much what he wanted. He said that he believed the wit-

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claimed that the Jones material did exactly what the rules of evidence require—demonstrated that Burge's intent was to obtain confessions by torture; that his motive was to punish suspects; that his plan was to torture people until they confessed; that he was prepared or equipped to torture people and that he knew how to do it; that he had the opportunity to do it; and that the similarities between the Jones and Wilson claims were so pronounced that they amounted to a trademark, a signature, an identification of the perpetrator.

On May 19, four weeks before the start of the second trial, Judge Duff ruled that the Jones evidence was not admissible. His ruling was made orally, not in writing, and from the transcript it is difficult to follow his reasoning: He states that the Jones evidence does not show intent, but he does not explain why. He states that the Jones evidence does not show motive, because Jones's case had no connection to Wilson's. He goes on to say that the evidence could not be used to prove identity because no one was contesting Burge's identity, and he finds that the Jones testimony does not show that Burge had the opportunity to torture Wilson, or that he was prepared or equipped to do so, because the device used against Jones was "dissimilar to the two de-

vices used against Wilson." (Jones had testified that the wires on the device used against him were connected to a couple of objects that resembled tweezers; Wilson had described them as alligator clips.) The judge did rule that the Jones testimony was "possibly relevant" to the issue of punitive damages, and so he ordered that the issue of punitive damages would be separated from the trial. If the second jury came back with a verdict in Wilson's favor, the judge might then allow Jones to testify in order to help the jury decide what damages should be assessed against Burge.

The second trial opened on June 19 with little fanfare. None of the courthouse reporters stopped in to hear opening arguments. Over the course of the next seven weeks, many of the witnesses from the first trial came back and told their stories a second time. Wilson's lawyers added a few new voices as policy witnesses against the city, among them the aforementioned Willie Porch, the only man uncovered during the interval between trials whose allegations of abuse involved an incident in which someone had shot at a policeman. Porch, who was serving 30 years for armed robbery and attempted murder, said that he was handcuffed behind his back and that a Sergeant X had stood on Porch's testicles, hit him on the head repeatedly with a gun, and tried to hang him by his handcuffs to a hook on a closet door. (The rules of evidence concerning prior crimes prevented Porch from tell-

ing the jury that Sergeant X was Jon Burge.)

Wilson's lawyers had also wanted to have Donald White testify. White, or Kojak, had been with the Wilson brothers on February 9, after the burglary and before the shooting of Fahey and O'Brien. Coincidentally, he had been picked up as a suspect in the shooting after eyewitness Tyrone Sims picked White's photograph from a group of mug shots, saying he resembled the killer. White was arrested soon thereafter and was taken to police headquarters at 11th and State. In a sworn deposition taken after the second trial was under way, White said that he was interrogated by Area 2 detectives, that they put a plastic bag over his head, and that they beat him on the head and body with fists and books. Because he could not see out of the bag, he could not tell who was doing the beating, but he did identify Burge, O'Hara, and McKenna as being among the officers who were in the room. He also said that he could hear the screams and cries for help of his brothers, who had been picked up with him.

The state's attorney's office had intended to use White to testify against Andrew Wilson in his first criminal trial and they had housed and fed him for a time as part of their witness protection program. In arguments before Judge Duff, Kunkle and the city's attorneys argued that White had not complained of being beaten to anyone in the state's attorney's office, and he had not filed an OPS complaint. Citing those factors and the evidence rules concerning

prior acts, Duff decided that White would not be allowed to take the stand. Wilson's lawyers were outraged: Given that White was being questioned about the very crime that Andrew Wilson was later questioned and allegedly tortured for, classifying the detectives' treatment of White as a "prior act" struck the attorneys as ludicrous.

The most amazing aspect of the second trial, however, was not Judge Duff's rulings, but the detectives' revamped defense. They did without the services of Dr. Warpeha, the \$500-an-hour burn expert. This time the police maintained that Wilson's wounds were burns after all—and that Wilson had inflicted them himself.

In the first trial, the police maintained that Wilson had been kept in Interview Room 2, and several detectives had claimed that the radiator in that room didn't work. In the second trial, it was suggested that Wilson was kept in Interview Room 1, where the radiator did work, and that Wilson had burned himself on it. The man brought forward to support this contention was a British citizen, a jailhouse informant named William Coleman.

Coleman, born in Liverpool in 1948, has also been known as Mark Krammer, Paul Roberts, Richard Hallaran, R.W. Stevenson, Doctor Roberts, W. Van der Vim, Peter Karl William, John Simmons, and William Clarkson. He has served time in prisons in England, Ireland, Germany, Holland, Monaco, Hong Kong, and the United States. He has been convicted of fraud,

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nesses who testified that the police had run amok in their search for the killers of Fahey and O'Brien, and as a result he believed that there had been a policy of abuse. He did not, however, believe that Wilson was injured under that policy. His reasoning was a bit circuitous. He said he thought that if the detectives at Area 2 were able to abuse Wilson at will, knowing that no one in the department or the city would do anything about it, they would have abused him in such a way as to not leave any marks. Leaving marks, he said, was the one way the public and the media could find out that Wilson was beaten.

"If anything, I believe it was an emotional outburst by them," Gall said, "and that was the reason why he suffered his injuries. I don't think it necessarily had to be done under this policy."

So the foreman believed that Burge and his colleagues had tortured Wilson? "I'm not saying that," Gall said. "... We believe that he did sustain these injuries from the police, some of the injuries, but there wasn't enough evidence to show that he got all of the injuries from the police. As to whether or not he was actually tortured, there is not enough evidence either. ... It just seemed to me they were just really mad at this guy for shooting one of their buddies, and you know, a couple of these guys took the liberty of letting their emotional attitude toward this guy show. They were just acting out of

their anger toward this guy. That is something that we agreed upon. ... [But] it is kind of hard to find someone responsible for something so serious without an actual witness coming forward, a neutral witness coming forward and saying 'I seen him do it.' ... We did agree that he got those injuries from someone, but as far as being specific as to who actually did the damage, there just wasn't enough evidence. ... You know convicts, a lot of these guys are street-wise and they're pretty good at bullshitting."

* * *

A few weeks after the jury came back with its verdict, Commander Burge consented to an interview in his office at Area 3 headquarters. There is nothing remarkable about the room, which is decorated with pictures of police softball and bowling teams, sports trophies, an autographed picture of Police Superintendent Leroy Martin, a photo of the Saint Jude's League parade (the league helps the families of police officers killed in action), and two commendations. I could tell you that I found the man in the office sinister, but the truth is that I find Jon Burge a likable man. He's irreverent, he's modest about his accomplishments, and he tells a good story. He was concerned that I would put words in his mouth and had asked another policeman to sit in on the interview as a witness, but as I was taping the interview and promised to send him a copy of the tape, he dismissed his recruited monitor and answered my questions.

Because Wilson's attorneys are putting together an appeal, Burge did not feel at lib-

erty to speak about the case in any depth. "The only statement I can make is that the jury has spoken," he said. "I testified at both trials. I did nothing wrong."

I asked if he could say anything about the allegation that he has been abusing prisoners, sometimes with electroshock, since 1968. "All I can tell you are things I have heard, which is that there are a great number of misrepresentations," Burge said. He said that in some of these cases, he'd been told, the alleged victims filed no motions to suppress their confessions, though such motions are expected from suspects who are physically abused. In other instances, Burge said, the victims never made statements confessing involvement in the crimes for which they were arrested, so again there were no motions to suppress and no charges of abuse recorded. "Basically, I would say that they [Wilson's lawyers] have made gross misrepresentations or they believe what they are saying and the people they talked to lied to them."

It seems unlikely at this point that we will ever know if those accusations are lies, gross misrepresentations, or truth. The statute of limitations for aggravated battery is three years, and that interval has now passed on all of the incidents uncovered thus far. It is possible that the U.S. Court of Appeals will order a new trial in Wilson's civil suit, and a different judge might allow Wilson's attorneys wider scope than Duff did. In that event there might be further testimony and cross-examination on the charges. It would also be possible for the U.S. attorney's office to enter the arena, even at this late date; if federal prosecutors

believed Burge had indeed tortured suspects and lied about it under oath, they could charge him with perjury. However, Wilson's lawyers have spoken with the U.S. attorney's office, and they have been led to believe that the government will not be pursuing any investigation.

This case, despite its inherent drama and the clash of personalities in the courtroom, was no different than others in that much of the proceeding was tedious, and while I waited for the attorneys and the judge to emerge from their innumerable sidebar my mind wandered. I often found myself speculating about the big question, the one that was never asked. Dr. Kirschner, the torture expert and deputy chief medical examiner, had said that Andrew Wilson's testimony was consistent with what is known about torture victims. No one asked him if the behavior of the police was consistent with that of torturers, or if the city itself resembled the sort of society where torture might take place.

In his book *The Nazi Doctors*, Dr. Robert Jay Lifton points out that although we prefer to see torturers as palpably evil and mentally deranged, in fact psychopaths are unfit for the job and torturers usually turn out to be quite normal people. Psychologist Mika Haritos-Fatouros studied 16 former members of Greece's Army Police Corps, the group that tortured Greek citizens for the junta that ruled the country from 1967 to 1974, and found no indication that any of the former torturers were sadists, no indication even that they had been particularly aggressive as children. Torture, they said, had just been part of their job, and they had

seen the people they were torturing as threats to Greek civilization. Molly Harrower, a University of Florida psychologist, discovered that Rorschach specialists could not differentiate between the ink-blot test results of a group of Nazi war criminals (including Adolf Eichmann, Rudolf Hess, and Hermann Goering) and the results recorded by a group of Americans, some well-adjusted, some severely disturbed; the experts judged an equal number of both sets to be well-adjusted.

The literature on torture indicates that those who do it often develop the attitude that the people being tortured are less than human. Sometimes the victims are given derogatory nicknames (e.g., "gooks"), sometimes they are called simply by numbers. Torturers also tend to give nicknames to their procedures (in Zaire, a prisoner made to drink his own urine was said to be given *le petit dejuner*—breakfast; in Brazil, there was the "parrot's perch," a device for hanging a prisoner upside down and beating him or her; in Greece, beatings were known as "tea parties"; in Uruguay, prolonged submersion of a prisoner's head under water was called *el submarino*, while in Chile it was known as *la banera*—the bath). Sexual abuse is not uncommon (in Northern Ireland, police pulled and squeezed prisoners' testicles; in Israel, Palestinian detainees have reported being beaten around the genitals; in Uganda, testicles have been crushed by cattle-gelding tools). Once begun, torture seems to have a tendency to increase: it may start out as a method of ob-

taining confessions or information, but often it continues long after the prisoner has told everything he or she knows. Torture becomes a method of controlling a community by intimidation, so in the end, the torturer's purpose is served no matter who the victim is or whether he or she is innocent or guilty.

Participants in torture and those who are aware of it tend not to object as long as someone else is in charge. "I obeyed," Adolf Eichmann told an Israeli interrogator. "Regardless of what I was ordered to do, I would have obeyed." In the famous Stanley Milgram experiments at Yale in 1961, normal American adults, told that they were participating in an experiment on the effects of punishment on learning, were perfectly willing to apply dangerously high levels of electric shock to students who got wrong answers, as long as someone in authority was ultimately responsible. (In fact the students were actors and no electric shock was applied.)

It takes no genius to see coincidences between these patterns and the Chicago case. According to Wilson and Lawrence Poree, Burge called the electrical interrogation "fun time." In a deposition, Burge admitted that he was given to calling suspects "pieces of human garbage." Wilson alleges that his penis was yanked. The anonymous letter writer claims that Wilson was not tortured to get a confession, that he had in fact already confessed. If one believes Wilson's description of the course of events, it follows that a fair number of policemen knew

something strange was going on in that closed room, both that day and on others; perhaps they do not come forward because, as in Milgram's experiment, someone in charge sanctioned the operation.

Why does the U.S. attorney not investigate? Perhaps because no one believes it can happen here. It certainly seemed that the press did not believe it: Wilson's second trial last summer passed completely unnoticed but for the verdict. During the first trial, the courthouse reporters were filing almost daily, not on the Wilson case, but on the trial of sports agents Norby Walters and Lloyd Bloom, a trial that featured a parade of celebrities and a duel of famous lawyers but no hard questions about the city, its police force, or what we as citizens will tolerate or condone.

Perhaps there is no federal investigation because deep down, most people feel that Andrew Wilson deserved it. But then what about Roy Brown, who said his finger was put in a bolt cutter? And what about Doris Miller, 45, a neighbor of the Wilsons, a postal worker, a woman who had never been arrested before? Under oath she said she was handcuffed to a windowsill in an interview room, was denied access to a toilet for about 14 hours, and ultimately had to relieve herself in an ashtray. And what about some of the other men who passed through Area 2 and were convicted of crimes on the basis of confessions given after they allegedly had their testicles stood upon, or bags put over their heads, or cattle prods taken to their genitals? Might they in fact be innocent?

Perhaps there is no investigation simply because, as other nations have found, torture is an intimate affair, something that happens among a few adults behind a closed door, something that is hard to prove afterward because the accused—often decorated soldiers who have served their country in a time of crisis—deny the allegations, and the victims are terrorists, alleged terrorists, associates of terrorists, associates of associates, subversives, dissidents, criminals, rioters, stone throwers, sympathizers, or relatives of the above.

In the course of the two trials I met the father, brother, and wife of Officer Fahey—good, solid, unpretentious Irish-Americans—and I pondered their predicament: if Andrew Wilson, the killer of their son, brother, and husband, were to prevail in his suit and collect some of the \$10 million he was asking for, Officer Fahey's three children might be better off, as they would certainly prevail in the wrongful death suit they've brought against Wilson and would collect whatever he had received in compensation. Yet it was quite clear to me that father, brother, and wife were not in the Wilson camp. That set me to wondering what Officer Fahey, with his policeman's sixth sense, would have thought of the evidence, or of the allegations surrounding the old Area 2 headquarters at 91st and Cottage Grove. I couldn't help but think that he might have cocked his finger, aimed it at the door of the building, and said, "This place is dirty."

PEOPLE v. WILSON

Cite as 506 N.E.2d 571 (ILL 1987)

ILL 571

116 Ill.2d 29

106 Ill.Dec. 771

The PEOPLE of the State of
Illinois, Appellee,

v.

Andrew WILSON, Appellant.

No. 58276.

Supreme Court of Illinois.

April 2, 1987.

Defendant was convicted in the Circuit Court, Cook County, John J. Crowley, J., of murder and armed robbery, and he appealed. The Supreme Court, Miller, J., held that: (1) state failed to show by clear and convincing evidence that injuries sustained by defendant were not inflicted as a means of coercing his confession; (2) evidence of identification witness' prehypnotic recollection was admissible; and (3) presentation of complaint to judge by officer did not trigger defendant's right to counsel at lineup.

Reversed and remanded.

1. Criminal Law \Leftrightarrow 531(3)

When it is evident that a defendant has been injured while in police custody, State must show, by clear and convincing evidence, that injuries were not inflicted as a means of producing his confession, and such a showing requires more than mere denial that confession was coerced. U.S.C.A. Const. Amend. 5.

2. Criminal Law \Leftrightarrow 531(3)

State failed to show by clear and convincing evidence that injuries sustained by defendant while in police custody were not inflicted as a means of producing his confession. U.S.C.A. Const. Amend. 5.

3. Criminal Law \Leftrightarrow 1169.12

The use of a defendant's coerced confession as substantive evidence of his guilt is never harmless error. U.S.C.A. Const. Amend. 5.

4. Criminal Law \Leftrightarrow 662.1

Confrontation clause does not necessarily prohibit use of testimony based on a witness' prehypnotic recollection, even

though witness' confidence in his memory has been bolstered to some degree by hypnosis. U.S.C.A. Const. Amend. 6.

5. Witnesses \Leftrightarrow 257.10

In ruling on admissibility of a witness' prehypnotic recall, subsequent to use of hypnosis as memory-enhancement aid, proponent of testimony should establish nature and extent of recall, and the parties should be permitted to present expert testimony to explain to trier of fact potential effects of the hypnosis.

6. Witnesses \Leftrightarrow 257.10

Although identification witness' testimony as to his prehypnotic recollection was admissible, on retrial ordered on other grounds, State would be required to demonstrate that posthypnotic identification of defendant by witness was anchored in witness' prehypnotic recollection, and defendant would be permitted to present expert testimony on hypnosis to aid jurors in understanding potential effects of hypnosis on witness' testimony.

7. Criminal Law \Leftrightarrow 641.3(10)

Police officer's presentation of complaint to judge to obtain arrest warrant could not fairly be construed as beginning of adversary proceedings between State and defendant, and defendant was not entitled to presence of counsel at lineup conducted subsequent to ex parte presentation to judge but prior to complaint being filed in court. U.S.C.A. Const. Amend. 6.

8. Criminal Law \Leftrightarrow 339.11(4)

Defense counsel was not entitled to make inquiry of identification witness at suppression hearing concerning photographic displays viewed before witness made lineup identification of defendant, in the absence of any showing that lineup was conducted in suggestive manner.

9. Criminal Law \Leftrightarrow 1158(2)

Trial court's findings that firearms found on defendant's premises were in "plain view," was not manifestly erroneous, where court accepted officer's testimony that weapons were found after he climbed on something to look for defendant in possible hiding place above stairwell.

that revolvers were fully visible and that shotgun was partly enclosed in brown paper bag. U.S.C.A. Const. Amend. 4.

10. Criminal Law >371(12)

Evidence of outstanding warrant for defendant's arrest was not admissible to establish motive for killing police officers in absence of any evidence that defendant knew that warrant existed or that officers were arresting defendant pursuant to warrant.

Neil F. Hartigan, Atty. Gen., Chicago, for appellee; Richard M. Daley, State's Atty., County of Cook, Joan S. Cherry, Kevin Sweeney, Asst. State's Attys., Chicago, of counsel.

Barry Sullivan, Michael Palmer, Chicago, for appellant; Jenner & Block, Chicago, of counsel.

Justice MILLER delivered the opinion of the court:

Following a jury trial in the circuit court of Cook County, the defendant, Andrew Wilson, was convicted on two counts each of murder and armed robbery. The same jury sentenced the defendant to death for the murder convictions, and the trial judge imposed concurrent 30-year prison terms for the defendant's armed robbery convictions. The death sentence was stayed pending direct appeal to this court. Ill. Const. 1970, art. VI, sec. 4(b); 87 Ill.2d Rules 603, 609(a).

The defendant's convictions stem from an occurrence on February 9, 1982, in which two Chicago police officers were killed. At about two o'clock that afternoon, Officers William Fahey and Richard O'Brien stopped an automobile on a street in the city. In the course of a scuffle with the occupants of the car, the officers were shot and their service revolvers were taken. The defendant and his brother, Jackie Wilson, were indicted and tried jointly for those offenses. At trial the State introduced into evidence inculpatory statements made by the defendant and his brother, and the State also presented eyewitness testimony and circumstantial evidence linking

them to the crimes. The defendant and his brother were convicted of the murders and armed robberies, and the jury sentenced the defendant to death. The jury was unable to agree to impose that penalty on the defendant's brother, however, and he was instead sentenced to a term of natural life imprisonment for his two murder convictions.

I

The defendant first argues that the trial court erred in denying a motion to suppress his confession as involuntary. The evidence presented at the hearing on the defendant's suppression motion showed that he was arrested at 5:15 a.m. on February 14, 1982. The defendant spent the day in police custody; during the afternoon he was placed in a lineup, and beginning around 6 o'clock that evening he gave a statement, transcribed by a court reporter, in which he admitted shooting the two police officers. Later that night the defendant was taken by the police to Mercy Hospital, and witnesses there observed some 15 separate injuries on the defendant's head, torso, and right leg.

At the suppression hearing the State attempted to establish that the defendant could not have incurred his injuries, with one exception, until after he gave his confession. The State presented the testimony of a number of persons who had contact with the defendant on February 14 during the period from his arrest until the conclusion of his formal confession; the witnesses were police officers who took part in the defendant's arrest and who interrogated him that day, as well as the assistant State's Attorney and the court reporter who were present when the defendant gave his formal confession. The State's witnesses uniformly denied that the defendant was threatened or beaten, and they testified that the only injury they noticed on the defendant while he was in their custody was one to his right eye. Several officers explained that the defendant apparently suffered the eye injury at the time of his arrest, when he was thrown to the floor and handcuffed. After the defendant was

lifted from the floor, the officers saw that he had received a cut above his right eye. The defendant was wearing only trousers at the time, and no other injuries were noticed on his face or chest. The State also presented photographic evidence regarding the defendant's physical condition at two separate times during that day. First, a photograph was taken of the lineup in which the defendant appeared during the afternoon of February 14, and he was again photographed at 8:30 that evening, upon the completion of his confession; in both photographs the defendant is fully clothed and is shown facing forward.

At the suppression hearing the State also presented evidence that the defendant made a confession upon his arrival at the police station. Officers Thomas McKenna and Patrick O'Hara testified that they spoke with the defendant around 7 o'clock on the morning of his arrest and that he waived the *Miranda* rights and then gave the officers, in oral form, substantially the same statement that he later made to the assistant State's Attorney. The officers did not ask the defendant to sign a waiver of his constitutional rights, nor did they preserve their notes of the discussion. The assistant State's Attorney, Lawrence Hyman, arrived at the police station around 8:30 a.m., and McKenna and O'Hara told him what the defendant had said. A court reporter, Michael Hartnett, got there about two hours later. Hyman did not see the defendant until 1:30 p.m., however, and he did not interview him until that evening. Hyman explained that he was busy "talking with the detectives and just synchronizing everyone."

The defendant testified that he was punched, kicked, smothered with a plastic bag, electrically shocked, and forced against a hot radiator throughout the day on February 14, until he gave his confession. This began when he arrived at the police station that morning. The defendant testified that when the officers later took him to see the assistant State's Attorney, Hyman, to make a statement, he mentioned the mistreatment, and Hyman told him to leave. Following that, the officers attempted to shock the defendant again.

The officers then stretched him against a radiator, with his hands handcuffed to wall rings at opposite ends of the radiator. His face, chest, and legs were touching the radiator. According to the defendant, he incurred his eye injury not at the time of his arrest but rather later that day, when he was kicked by an officer. The defendant testified that he made his confession because of the mistreatment he had suffered. Doris Miller, a friend of the defendant, was also being held at the police station that day, and she testified that she heard the defendant being physically and verbally abused and calling for help. The defendant's brother, Jackie Wilson, testified similarly.

Defense counsel also presented extensive medical testimony and photographic evidence corroborating the defendant's injuries. Patricia Reynolds, a registered nurse, testified that the defendant arrived at the Mercy Hospital emergency room around 10:15 or 10:30 p.m. on February 14 in the company of two Chicago police officers, Ferro and Mulvaney. According to Nurse Reynolds, Officer Ferro said "that if this guy knew what was good for him he would refuse treatment." Reynolds then asked the defendant whether he wished to be treated, and he said that he did not. Later, however, while the officers were looking away, the defendant indicated that he did wish to be treated, and he signed a consent form at 10:50 p.m. Following that, the defendant was given a tetanus shot and was prepared for examination. Nurse Reynolds testified that after the defendant was undressed she observed injuries on his chest and a burn on his right thigh.

The defendant was examined at about 11:15 p.m. by Dr. Geoffrey Korn. Dr. Korn testified that he made note of some 15 separate injuries that were apparent on the defendant's head, chest, and right leg. Two cuts on the defendant's forehead and one on the back of his head required stitches; the defendant's right eye had been blackened, and there was bleeding on the surface of that eye. Dr. Korn also observed bruises on the defendant's chest and several linear abrasions or burns on

the defendant's chest, shoulder, and chin area. Finally, Dr. Korn saw on the defendant's right thigh an abrasion from a second-degree burn; it was six inches long and 1½ to 2 inches wide.

Dr. Korn testified that as he prepared to suture the defendant's head and face wounds, he saw that Officer Mulvaney had drawn his service revolver. Fearing that the defendant's reaction to the shots of anesthesia might startle the officer, Dr. Korn asked that the weapon be holstered. Mulvaney refused to put the gun away, however, and the doctor therefore left the room. Officer Ferro then went in the examining room and soon came out, explaining to the doctor that the defendant was now going to refuse treatment and would go to a different hospital. Dr. Korn testified that he attempted to persuade the defendant to agree to treatment but that the defendant would not change his mind. At 11:42 p.m. the defendant signed an "against medical advice" form indicating his refusal of treatment, and Officers Ferro and Mulvaney then took the defendant away.

At the suppression hearing Dr. Korn was shown photographs taken of the defendant on February 16, two days after the emergency-room examination. The photographs showed a number of abrasions or burns on the defendant's face, chest, and thigh, and Dr. Korn testified that, apart from having aged a few days, the injuries depicted in the photographs were essentially the same as what he had seen in his examination.

Dr. John M. Raba, medical director of the facility that provides health services for the Cook County jail, also testified in the defendant's behalf at the suppression hearing. Dr. Raba examined the defendant early in the evening on February 15, after receiving from one of his staff physicians a report about the defendant and what was termed his "unusual" injuries. According to Dr. Raba, the defendant explained that he had been beaten, electrically shocked, and held against a radiator. Dr. Raba saw that the defendant had injuries to his right eye, bruises and lacerations on his fore-

head, and blistering wounds on his face, chest, and right leg.

The trial judge denied the defendant's motion to suppress his confession. The trial judge found that the defendant suffered a cut in the area of his right eye at the time of his arrest but that other facial injuries were shown not to have occurred until after 8:30 p.m., when the confession photograph was taken. The trial judge believed that the injuries to those parts of the defendant's body not visible in the photograph—his shoulder, chest, and leg—were minor or superficial. In making that assessment, the trial judge apparently was relying on Dr. Korn's statement, on cross-examination, that the defendant's wounds could be termed superficial because they did not require major surgery. The trial judge concluded that the defendant's confession was voluntary.

The State must establish, by a preponderance of the evidence, the voluntary nature of a defendant's confession. (*Lego v. Twomey* (1972), 404 U.S. 477, 489, 92 S.Ct. 619, 626-27, 30 L.Ed.2d 618, 627; *People v. Caballero* (1984), 102 Ill.2d 23, 33, 79 Ill. Dec. 625, 464 N.E.2d 223; Ill.Rev.Stat.1983, ch. 38, par. 114-11(d).) The evidence here shows clearly that when the defendant was arrested at 5:15 a.m. on February 14, he may have received a cut above his right eye but that he had no other injuries; it is equally clear that when the defendant was taken by police officers to Mercy Hospital sometime after 10 o'clock that night he had about 15 separate injuries on his head, chest, and leg. The inescapable conclusion is that the defendant suffered his injuries while in police custody that day, and indeed the State does not dispute that. Rather, the State believes that the evidence in this case shows that the defendant did not incur his injuries until after he gave his written confession, which was completed at 8:30 that evening. See *People v. Alexander* (1968), 96 Ill.App.2d 113, 120, 238 N.E.2d 168.

In making this argument, the State points first to the photographs, which it says show only the eye injury that the defendant suffered at the time of his ar-

rest. One of the photographs was taken in the afternoon of February 14, at the lineup, and the other photograph was taken at 8:30 that evening, following the defendant's confession. The State notes Dr. Korn's testimony that he could not see in the post-confession photograph certain facial injuries that were apparent later that night in the emergency room, and that fresh blood was observable on the defendant's face when he arrived at Mercy Hospital. Moreover, certain civilian witnesses, such as the defendant's brother, were present at the lineup but did not say that they saw any injuries on the defendant at that time. This evidence accounts only for injuries to the defendant's face, however. In the photographs the defendant is fully dressed, and he is shown facing forward. We note too that the lineup photograph was taken at a distance, and that the post-confession photograph is of poorer quality.

As additional support for its argument that all the injuries occurred after the defendant confessed, the State refers to an estimate given by Dr. Korn of the age of one of the defendant's burns. Asked about the length of the burn on the defendant's leg, Dr. Korn gave the unresponsive answer that it was "roughly speaking, . . . fairly recent, within eight hours." The State believes that this shows that the defendant's injuries were recent and contends that it is inconsistent with defense claims that abuse also occurred during the morning of February 14. But Dr. Korn's answer actually was consistent with the defendant's own testimony that he was forced against the radiator sometime in the afternoon on February 14. Moreover, the age of the burn is not inconsistent with defense testimony that other forms of abuse occurred in the morning.

Finally, the State points to the testimony of the police officers, the assistant State's Attorney, and the court reporter, who denied that the defendant was threatened or harmed. The State chose not to present the testimony of Officers Ferro and Mulvaney, who took the defendant to Mercy Hospital at 10:30 p.m., or the testimony of anyone who had contact with the defendant after the confession photograph was taken

at 8:30 that night—the defendant was not out of the presence of police officers during that day. The inference that the State would have us draw is that the defendant must have suffered the great bulk of his injuries during that two-hour gap in its evidence.

[1] This court has held that when it is evident that a defendant has been injured while in police custody, the State must show, by clear and convincing evidence, that the injuries were not inflicted as a means of producing the confession. (*People v. Davis* (1966), 35 Ill.2d 202, 206, 220 N.E.2d 222; *People v. La Frana* (1954), 4 Ill.2d 261, 267, 122 N.E.2d 583; *People v. Thomlison* (1948), 400 Ill. 555, 561-62, 81 N.E.2d 434). This requires more than the mere denial by the State's witnesses that the confession was coerced. In *People v. La Frana* (1954), 4 Ill.2d 261, 267, 122 N.E.2d 583, the court explained:

"Where the only evidence of coercion is the defendant's own testimony, and where this is contradicted by witnesses for the People, then of course the trial court may choose to believe the latter, and our recognition of the superior position of the trial court to evaluate the credibility of the witnesses before it makes us reluctant to reverse its determination. (*People v. Viti* [1951], 408 Ill. 206 [96 N.E.2d 541]; *People v. Varela* [1950], 405 Ill. 236 [90 N.E.2d 631].) But where it is conceded, or clearly established, that the defendant received injuries while in police custody, and the only issue is how and why they were inflicted, we have held that something more than a mere denial by the police of coercion is required. Under such circumstances the burden of establishing that the injuries were not administered in order to obtain the confession, can be met only by clear and convincing testimony as to the manner of their occurrence. See *People v. Thomlison* [1948], 400 Ill. 555 [81 N.E.2d 434]."

[2] Contrary to the State's argument, we believe that *La Frana* is applicable here. The requirement of clear and con-

vincing evidence is as relevant in a case such as this, in which the question is when the injuries occurred, as it is in a case in which the question is how or why the injuries occurred. Here it was "conceded, or clearly established, that the defendant received injuries while in police custody" (*People v. La Frana* (1954), 4 Ill.2d 261, 267, 122 N.E.2d 583), and the only question for the purpose of our inquiry is when they were inflicted. Accordingly, "more than a mere denial by the police of coercion [was] required" (4 Ill.2d 261, 267, 122 N.E.2d 583), 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 the burden was met here. Although the State presented evidence that could account for when some of the defendant's facial injuries occurred, the others were not explained; and with respect to those injuries the State essentially relied on a mere denial of coercion.

[3] The decisions relied on by the State to support the trial court's ruling are not on point. In those cases either there was no medical corroboration that injuries had been incurred (see *In re Lamb* (1975), 61 Ill.2d 383, 336 N.E.2d 753; *People v. Johnson* (1970), 44 Ill.2d 463, 256 N.E.2d 343; *People v. Taylor* (1968), 40 Ill.2d 569, 241 N.E.2d 409; *People v. Carter* (1968), 39 Ill.2d 31, 233 N.E.2d 393; *People v. Hall* (1967), 38 Ill.2d 308, 231 N.E.2d 416; *People v. Strayhorn* (1965), 35 Ill.2d 41, 219 N.E.2d 517; *People v. Golson* (1965), 32 Ill.2d 398, 207 N.E.2d 68), or there was an adequate explanation for the injuries (see *People v. Pittman* (1973), 55 Ill.2d 39, 302 N.E.2d 7; *People v. Scott* (1963), 29 Ill.2d 97, 193 N.E.2d 814; *People v. Wilson* (1963), 29 Ill.2d 82, 193 N.E.2d 449). In contrast, the defendant's injuries in this case cannot be disputed, and only several facial injuries were explained by the State. Because the State failed to show by clear and convincing evidence that the confession was not the product of coercion—the burden imposed by *La Frana*—the defendant's statement should have been suppressed as having been involuntarily given. The use of a defendant's coerced confes-

sion as substantive evidence of his guilt is never harmless error, and the cause must therefore be remanded for a new trial. *Payne v. Arkansas* (1958), 356 U.S. 560, 568, 78 S.Ct. 844, 850, 2 L.Ed.2d 975, 981; see *Rose v. Clark* (1986), 478 U.S. —, 106 S.Ct. 3101, 3105-06, 92 L.Ed.2d 460, 470; *Chapman v. California* (1967), 386 U.S. 18, 23 n. 8, 87 S.Ct. 824, 828 n. 8, 17 L.Ed.2d 705, 710 n. 8.

II

We shall also consider several other questions that are likely to arise in the course of the defendant's retrial. One of the State's two eyewitnesses at trial was Tyrone Sims, who testified that he had observed the shooting from inside his home. On February 10, 1982, Sims was taken to Dr. Bennett Braun to undergo hypnosis to assist him in recalling the license plate number of the car that the police officers had stopped; under hypnosis Sims purported to recall an Illinois license plate number. Two days later, on February 12, Sims identified from a photographic array two men—not the defendant and his brother—as the persons who had shot the officers; the next day Sims viewed a lineup containing those two persons and retracted his identification. One of these men implicated the Wilsons, however, and at a lineup on February 14 Sims also identified the Wilsons as the persons who had shot the officers.

The defendant filed a pretrial motion to bar or limit the use of Sims' testimony, contending that the witness' recollection of the shooting and his identification of the defendant had been induced or influenced by the session of hypnosis. The State contended that the only hypnotically induced recollection by Sims was the license plate number, which would not be used at trial. Defense counsel sought to present expert testimony to the effect that suggestions and statements made by the hypnotist during the session could have affected Sims' identification of the defendant and his recollection of the shooting. The trial judge denied the request. After viewing the videotape of the hypnosis session, the trial

judge determined that the license plate number was the only hypnotically induced recollection and ruled that Sims would be allowed to testify about anything that he remembered independently of the hypnosis. Defense counsel then requested a hearing to determine Sims' prehypnotic recollection. The trial judge denied the request, finding that Sims' recollection of events occurring before the hypnosis session was adequately set forth in a police report prepared on February 16, six days after the hypnosis session, and in the videotape of Dr. Braun's prehypnotic interview, with the witness. Later, during trial, defense counsel attempted to introduce expert testimony that Sims' recollection of the shooting and his pretrial and trial identifications of the defendant were hypnotically influenced. Defense counsel also attempted to introduce expert evidence to explain to the jury the effect that hypnosis may have had on Sims' testimony. The trial judge denied the requests, holding that Sims' testimony was untainted by the hypnosis. The court did allow defense counsel to question the hypnotist, Dr. Braun, for the limited purpose of impeaching Sims' testimony with prior inconsistent statements.

Although hypnosis is widely recognized as a form of therapy, its value as a memory-enhancing aid for forensic purposes is disputed. The professional literature on the subject, together with the offers of proof submitted by the defendant in this case, show that hypnosis can influence a subject in subtle yet significant ways. A person in a hypnotic state is highly suggestible, and unintended cues from the hypnotist or others may affect the subject's recall. Moreover, under hypnosis a person may confabulate and fill in gaps in his memory with guesses or uncertain perceptions. Hypnosis may also cause the subject to cement an uncertain recollection, giving it the aura of unshakable certainty. Thus, hypnosis may provide a beneficial form of therapy and may even be useful as an investigatory aid, but it also can significantly reduce a subject's value as a trial witness. See Council on Scientific Affairs, *Scientific Status of Refreshing Recollection by the Use of Hypnosis*, 253 J.A.M.A.

1918 (1985); Orne, *The Use and Misuse of Hypnosis in Court*, 27 Int'l J. of Clinical & Experimental Hypnosis 311 (1979).

This court has not previously ruled on the admissibility of post-hypnotic testimony (see *People v. Cohoon* (1984), 104 Ill.2d 295, 299, 84 Ill.Dec. 443, 472 N.E.2d 403), though the appellate court has considered a number of these issues (see *People v. Gibson* (1983), 117 Ill.App.3d 270, 72 Ill.Dec. 672, 452 N.E.2d 1368; *People v. Smrekar* (1979), 68 Ill.App.3d 379, 24 Ill.Dec. 707, 385 N.E.2d 848). Some jurisdictions have held that hypnotically induced testimony is always admissible, and that the fact of hypnosis pertains to the witness' credibility rather than to his competency. (See, e.g., *State v. Brown* (N.D.1983), 337 N.W.2d 138; *Chapman v. State* (Wyo.1982), 638 P.2d 1280.) Other courts, applying a rule of *per se* inadmissibility, have held that hypnotically induced testimony must always be excluded from evidence. (See, e.g., *Contreras v. State* (Alaska 1986), 718 P.2d 129; *State ex rel. Collins v. Superior Court* (1982), 132 Ariz. 180, 644 P.2d 1266; *Rock v. State* (1986), 288 Ark. 566, 708 S.W.2d 78, cert. allowed (1986), — U.S. —, 107 S.Ct. 430, 93 L.Ed.2d 381; *People v. Shirley* (1982), 31 Cal.3d 18, 723 P.2d 1354, 181 Cal.Rptr. 243; *Commonwealth v. Kater* (1983), 388 Mass. 519, 447 N.E.2d 1190; *People v. Gonzales* (1982), 415 Mich. 615, 329 N.W.2d 743, modified (1983), 417 Mich. 1129, 336 N.W.2d 751; *State v. Mack* (Minn.1980), 292 N.W.2d 764; *State v. Palmer* (1981), 210 Neb. 206, 313 N.W.2d 648; *People v. Hughes* (1983), 59 N.Y.2d 523, 466 N.Y.S.2d 255, 453 N.E.2d 484; *State v. Peoples* (1984), 311 N.C. 515, 319 S.E.2d 177; *Commonwealth v. Nazarowitch* (1981), 496 Pa. 97, 436 A.2d 170.) Finally, a number of State and Federal courts have followed a middle course, allowing the introduction of hypnotically induced testimony if the proponent of the evidence is able to demonstrate that it was produced under conditions that would reduce, if not eliminate, the prejudicial dangers of the hypnotic process. See, e.g., *Sprynezynatyk v. General Motors Corp.* (8th Cir.1985), 771 F.2d 1112; *United*

States v. Valdez (5th Cir.1984), 722 F.2d 1196; *State v. Iwakiri* (1984), 106 Idaho 618, 682 P.2d 571; *State v. Hurd* (1981), 86 N.J. 525, 432 A.2d 86; *State v. Armstrong* (1983), 110 Wis.2d 555, 329 N.W.2d 386.

We need not determine at this time whether hypnotically induced testimony may ever be admitted into evidence, for that question is not before us. In this case the trial judge barred the State from introducing any hypnotically induced testimony, and rather than ask for a less severe restriction, the State insists that no part of Sims' trial testimony was induced by hypnosis. We must therefore decide a related question—whether a previously hypnotized witness may testify regarding his prehypnotic recollection.

Significantly, in many of those jurisdictions in which hypnotically induced testimony is either excluded from evidence or admitted only on a case-by-case basis, courts that have considered the question generally have allowed a previously hypnotized witness to testify regarding his prehypnotic recollection. This has been the result in a number of States that bar the admission of hypnotically induced testimony. (See, e.g., *Contreras v. State* (Alaska 1986), 718 P.2d 129; *State ex rel. Collins v. Superior Court* (1982), 132 Ariz. 180, 644 P.2d 1266 (supplemental opinion); *Rock v. State* (1986), 288 Ark. 566, 708 S.W.2d 78, cert. granted (1986), — U.S. —, 107 S.Ct. 430, 93 L.Ed.2d 381; *Commonwealth v. Kater* (1983), 388 Mass. 519, 447 N.E.2d 1190; *State v. Koehler* (Minn.1981), 312 N.W.2d 108; *State v. Patterson* (1983), 213 Neb. 686, 331 N.W.2d 500; *State v. Peoples* (1984), 311 N.C. 515, 319 S.E.2d 177; *Commonwealth v. Taylor* (1982), 294 Pa.Super. 171, 439 A.2d 805.) The same result has also been reached in jurisdictions that make case-by-case determinations of the admissibility of hypnotically induced testimony. See, e.g., *State v. Iwakiri* (1984), 106 Idaho 618, 682 P.2d 571; *State v. Armstrong* (1983), 110 Wis.2d 555, 329 N.W.2d 386.

The view has been criticized, however. In *People v. Guerra* (1984), 37 Cal.3d 385, 208 Cal.Rptr. 162, 690 P.2d 635, the California Supreme Court suggested that testimo-

ny purportedly derived from a witness' prehypnotic recollection would suffer from the same defects as hypnotically induced testimony, which the court had previously held could not be admitted into evidence (*People v. Shirley* (1982), 31 Cal.3d 18, 641 P.2d 775, 181 Cal.Rptr. 243). Because the question was not squarely presented, however, *Guerra* did not decide whether testimony of that sort would ever be allowed. In *State v. Brown* (N.D.1983), 337 N.W.2d 138, the North Dakota Supreme Court believed that it would be inconsistent to allow testimony based on prehypnotic recollection while barring hypnotically induced testimony. The court adopted the rule that hypnotically induced testimony is generally admissible, however, which made it unnecessary to decide whether, as a separate matter, testimony based on prehypnotic recollection may ever be introduced.

One commentator has noted that "the admission of even pre-hypnotic memories carries with it too many of the most serious evils of post-hypnotic recall." (I. Mickenberg, *Mesmerizing Justice: The Use of Hypnotically-Induced Testimony in Criminal Trials*, 34 Syracuse L.Rev. 927, 971 (1983).) But a witness' memory regarding his prehypnotic recollection would seem to escape the more significant problems posed by hypnosis; because the testimony is based on information related by the witness before undergoing hypnosis, confabulation and suggestibility could not have had any effect. The main danger appears to lie in the bolstered confidence that hypnosis may impart even to testimony based on prehypnotic recollection, and an argument may be made that the use of bolstered testimony against a defendant in a criminal proceeding would violate his right to confront the witnesses against him.

A similar argument was rejected in *Clay v. Vose* (1st Cir.1985), 771 F.2d 1. In *Clay* a witness initially made a somewhat uncertain identification of the defendant from an array of photographs as one of three men whom the witness saw entering a taxi cab; the cab driver was murdered later that night. Following a session of hypnosis, in which the witness was instructed to

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review the events, the witness viewed the photographic array again, and on that occasion he positively identified the defendant as one of the three men. He also repeated his identification of another man but was unable to identify the third. The witness was hypnotized some time later, with similar results. At trial the witness identified the defendant in court, and information concerning the photographic identifications, including the witness' increased confidence in making them, was also introduced.

In *Clay* the court rejected the defendant's argument that the increased confidence produced by hypnotizing the witness worked a denial of the sixth amendment right of confrontation. The court explained:

"That Dwyer's [i.e., the witness'] hypnosis might have increased his confidence in his identification of Clay and made it more difficult for Clay's counsel to question him effectively does not necessarily mean that the admission of Dwyer's testimony violated Clay's sixth amendment right to confrontation. . . . As construed by the Supreme Court, 'a primary interest secured by [the clause] is the right of cross-examination.' The Court has also stated that the two purposes served by cross-examination are to allow the defendant to impeach a witness's credibility and to expose a witness's biases and possible motives for testifying. Fulfillment of these two purposes is so central to the meaning of the confrontation clause that the Ninth Circuit has held that 'once cross-examination reveals sufficient information to appraise the witness's veracity, confrontation demands are satisfied.' (771 F.2d 1, 4.)

The court in *Clay* noted that the witness was cross-examined; that the jury was informed of the hypnosis, heard a tape recording of each of the two sessions, and was presented with opposing expert testimony on the subject; that the witness had made a prehypnotic identification of the defendant; and that the jury was instructed on the effects of hypnosis.

[4,5] Thus, the confrontation clause does not necessarily prohibit the use of testimony based on a witness' prehypnotic recollection, even though the witness' confidence in his memory has been bolstered to some degree by the hypnosis. A total bar on testimony derived from prehypnotic recollection would therefore exact an unnecessary toll. "A criminal trial for rape or assault would present an odd spectacle if the victim was barred from saying anything, including the fact that the crime occurred, simply because he or she submitted to hypnosis sometime prior to trial to aid the investigation or obtain needed medical treatment." (*People v. Hughes* (1983), 59 N.Y.2d 523, 545, 466 N.Y.S.2d 255, 266, 453 N.E.2d 484, 495.) We agree, that this approach strikes "a more realistic balance" between the problems of hypnosis and the drastic effect of a total ban on testimony from previously hypnotized witnesses regarding matters touched on in the hypnotic session. (See Ruffra, *Hypnotically Induced Testimony: Should It Be Admitted?* 19 Crim.L.Bull. 293, 321 (1983).) The proponent of the testimony should establish the nature and extent of the witness' prehypnotic recall. The parties should also be permitted to present expert testimony to explain to the trier of fact the potential effects of hypnosis. This approach, which essentially corresponds to that adopted by a number of other States (see, e.g., *State ex rel. Collins v. Superior Court* (1982), 132 Ariz. 180, 210, 644 P.2d 1266, 1296 (supplemental opinion); *State v. Iwakiri* (1984), 106 Idaho 618, 626-27, 682 P.2d 571, 579-80; *Commonwealth v. Kater* (1983), 388 Mass. 519, 526, 447 N.E.2d 1190, 1197; *State v. Armstrong* (1983), 110 Wis.2d 555, 564, 329 N.W.2d 386, 395), effectively meets the problems associated with hypnosis and its potential influences on a witness' testimony regarding his prehypnotic recollection.

[6] In this case, then, the trial judge correctly ruled that Sims could testify to his prehypnotic recollection. The parties did not agree, however, on the extent of the witness' recollection. For example, in a police report prepared six days after the hypnosis, Sims is said to have given a pre-

hypnotic description of the assailants; the report does not say what the description was, however. Sims did not view the defendant until after the hypnosis session, and therefore the State, unless it chooses to argue for the admission of hypnotically induced testimony, must demonstrate to the court that the post-hypnotic identification of the defendant was anchored in the witness' prehypnotic recollection. The defendant's proffered expert testimony on the effects of hypnosis would assist the trial judge in making that determination. Finally, the defendant should be permitted to present at trial expert testimony on hypnosis, which would aid the jurors in understanding the potential effects of hypnosis on Sims' testimony.

III

[7] The defendant also argues that the trial court erred in denying a motion to suppress the identification testimony of Tyrone Sims. An in-court identification made by Sims of the defendant allegedly was based on an identification made at the lineup on February 14, 1981, and the defendant believes that he was entitled to the presence of counsel at the lineup. The defendant argues that the procedure used in obtaining the warrant for his arrest marked the beginning of adversary proceedings and therefore triggered his right to counsel at critical stages before trial. See *United States v. Wade* (1967), 388 U.S. 218, 87 S.Ct. 1926, 18 L.Ed.2d 1149.

The right to counsel attaches with the initiation of adversary proceedings against a defendant, and that may occur by formal charge, preliminary hearing, indictment, information, or arraignment. (*Brewer v. Williams* (1977), 430 U.S. 387, 398, 97 S.Ct. 1232, 1239, 51 L.Ed.2d 424, 436; *Kirby v. Illinois* (1972), 406 U.S. 682, 689, 92 S.Ct. 1877, 1882, 32 L.Ed.2d 411, 417 (plurality opinion).) It has not been held, however, that an arrest, by itself, triggers the right to counsel. (*United States v. Gouveia* (1984), 467 U.S. 180, 189-90, 104 S.Ct. 2292, 2298-99, 81 L.Ed.2d 146, 155-56.) This court has not previously decided whether the filing of a complaint by a police officer to obtain an arrest warrant signals the

initiation of adversary proceedings. (See *People v. Owens* (1984), 102 Ill.2d 88, 79 Ill.Dec. 663, 464 N.E.2d 261; see generally Robinson, *Defendant's Pre-indictment Sixth Amendment Right to Counsel: Its Attachment and Waiver*, 74 Ill.B.J. 484 (1986).) In this case, the police officer presented a complaint for an arrest warrant to a judge on February 13, pursuant to statute. (See Ill.Rev.Stat.1983, ch. 38, par. 107-9(c).) The complaint was presented to the judge *ex parte*, it was done by a police officer rather than by an assistant State's Attorney, and the complaint was not filed in court until after the defendant appeared in the lineup. We do not believe that the procedure followed here can fairly be construed as the beginning of adversary proceedings between the State and the defendant. See *People v. Racanelli* (1985), 132 Ill.App.3d 124, 130-31, 87 Ill.Dec. 187, 476 N.E.2d 1179; *People v. Boswell* (1985), 132 Ill.App.3d 52, 57-60, 87 Ill.Dec. 162, 476 N.E.2d 1154.

[8] The defendant also argues that, at the hearing on the motion to suppress Sims' identification, the trial court erred in precluding the defense from making certain inquiries. Defense counsel sought to question Sims regarding photographic displays that the witness viewed before making his lineup identification of the defendant and his brother on February 14. Sims had identified two other persons from an earlier photographic array, and counsel's avowed aim was to investigate ways in which Sims had come to "unidentify those other people" and come to "identify these." The trial judge required counsel to limit his questions to the February 14 lineup, in which the defendant appeared. We cannot say that the trial judge's ruling was in error, for there was no showing that the February 14 lineup was conducted in a suggestive manner.

[9] The defendant also contends that the trial court erred in denying his motion to suppress a sawed-off shotgun and the officers' service revolvers, which were seized at the beauty shop where the defendant lived and worked. The defendant

RUFFINER v. MATERIAL SERVICE CORP.

ILL. 581

Cite as 506 N.E.2d 581 (Ill. 1987)

argues that in searching the premises the police could take only items that were in plain view, and he contends that the weapons were hidden.

The trial judge found that the police were lawfully on the premises and that they discovered the weapons in plain view. The trial judge credited the testimony of Detective Gorman, who said that he went to the shop to arrest the defendant on an unrelated arrest warrant. Detective Gorman testified that he found the weapons after climbing on something to look for the defendant in a possible hiding place above, a stairwell. The detective testified that the revolvers were fully visible and that the shotgun was partly enclosed in a brown paper bag. In light of Gorman's testimony, which the trial judge chose to accept, the court's findings are not manifestly erroneous. See *People v. Neal* (1985), 109 Ill.2d 216, 219, 93 Ill.Dec. 365, 486 N.E.2d 898.

[10] The defendant also argues that the trial court erred in admitting evidence of an outstanding warrant for his arrest at the time of the occurrence here. The State introduced the evidence to show that the defendant had a motive for killing the police officers—to avoid arrest. But the State did not produce any evidence that the defendant knew that the warrant existed, or even that the officers were arresting the defendant pursuant to the warrant. The existence of the arrest warrant does not by itself show that the defendant was trying to avoid apprehension. Unless the defendant knew about the warrant or knew that the officers were attempting to arrest him, the existence of the warrant does not establish anything about the defendant's state of mind. *People v. Witherspoon* (1963), 27 Ill.2d 483, 190 N.E.2d 281, *People v. Doody* (1931), 343 Ill. 194, 175 N.E. 436, and *People v. Durkin* (1928), 330 Ill. 394, 161 N.E. 739, which the State cites, are distinguishable, for in each of those cases there was evidence that the defendant knew that he was wanted by the police.

The defendant raises a number of other arguments against his convictions and his death sentence, but they are questions that

are unlikely to recur on retrial or questions that need not be considered in this appeal. For the reasons stated, the defendant's convictions are reversed, his sentences are vacated, and the cause is remanded for a new trial.

Reversed and remanded.

SIMON, J., took no part in the consideration or decision of this case.



116 Ill.2d 53

106 Ill.Dec. 781

William C. RUFFINER, Appellee,

v.

MATERIAL SERVICE
CORPORATION, Appellant.

No. 62312.

Supreme Court of Illinois.

April 2, 1987.

Seaman brought action against owner of towboat for injuries sustained when he fell from ladder. The Circuit Court, Cook County, Warren D. Wolfson, J., found in favor of seaman, and owner appealed. The Appellate Court, 134 Ill.App.3d 747, 89 Ill. Dec. 414, 480 N.E.2d 1157, affirmed. Owner's petition for leave to appeal was allowed. The Supreme Court, Miller, J., held that: (1) admission of safety standards for fixed ladders promulgated by American National Standards Institute was erroneous; (2) evidence that ladder was slippery was sufficient to state claim against owner for unseaworthiness and for negligence under Jones Act; and (3) submission of three verdict forms was not error.

Reversed and remanded.

1 Seamen & 29(5)

Jones Act provides cause of action for seaman who is injured as result of ship

UNITED STATES OF AMERICA

Allegations of Police Torture in Chicago, Illinois

BACKGROUND

Amnesty International has received allegations that police from the Area 2 police station in Chicago, Illinois systematically tortured or otherwise ill-treated suspected criminals between 1972 and 1984. The allegations came to light as a result of a civil lawsuit brought by one of the alleged victims, Andrew Wilson, in 1989. He and most of the alleged victims of ill-treatment during this period were black.

Andrew Wilson was detained at the Area 2 police station in February 1982 on suspicion of murdering two Chicago police officers. He alleged that, during interrogation, he was among other things, beaten and kicked, had a plastic bag placed over his head causing near suffocation, threatened with mock execution by having a gun placed in his mouth and subjected to electric shock torture. The medical director of the hospital serving Cook County jail inmates urged a police investigation after witnessing Andrew Wilson's injuries which included burns to his chest, thigh, face and chin. However, a subsequent investigation by the Chicago Police Department's Office of Professional Standards (OPS), which is responsible for investigating complaints against the police, recommended that the complaint be dismissed as "not sustained", despite the extensive evidence of Andrew Wilson's injuries.

In 1987, the Illinois Supreme Court overturned Andrew Wilson's conviction of the murder of two police officers and ordered a retrial on the ground that his confession made in police custody may have been obtained by coercion. Andrew Wilson's lawyers subsequently filed a civil lawsuit against the City of Chicago alleging that he had been tortured in 1982. In June 1989 the jury hearing the case concluded that Wilson's constitutional rights had been violated in February 1982 and that there had existed at that time a *de facto* policy within the City of Chicago and the Police Department to ill-treat persons suspected of killing police officers. (The jury failed to find that Wilson himself had been subjected to excessive force, however, and cleared the three officers named in the suit of charges of torture: an appeal against this decision is pending.)

During their investigations into the case, Andrew Wilson's lawyers located more than 20 other persons who alleged that they had been tortured by police officers in the Area 2 police station between 1972 and 1984. In addition to beatings and other forms of ill-treatment, eight people alleged that they had been subjected to electric shocks, and

AMNESTY
INT'L.

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ILLINOIS, USA: AMNESTY INTERNATIONAL CONCERN

others said that they had had plastic bags placed over their heads or had been threatened with mock execution. At least 12 had filed OPS complaints which were dismissed as "not sustained", although two were later awarded damages in civil actions.

It appears that many other people may have been subjected to ill-treatment during this period. According to press reports, more than 200 black residents of the South Chicago area (where the Area 2 police station is located) had made complaints to various bodies, including the OPS, about police brutality during police investigation of the killing of the two officers in February 1982.

Although the Chicago city council has held hearings into more recent incidents of police brutality, there has been no inquiry into the allegations that the Chicago Police Department had a practice or policy of torturing or abusing suspects during the above-mentioned period, despite the evidence and the jury's finding in the Wilson case. As far as Amnesty International is aware, no police officers have been criminally prosecuted or disciplined as a result of these incidents. Amnesty International has learned that the officer in charge of the police unit alleged to have carried out the ill-treatment has been promoted. The OPS investigations into individual cases of alleged police brutality have also been widely criticized as inadequate.

Amnesty International concerns

Amnesty International opposes the torture or other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation. It calls on governments to implement the provisions of the United Nations Declaration on the Protection of All Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. This declaration stipulates that governments are responsible for investigating torture allegations, instituting criminal proceedings in torture cases and compensating the victims.

In accordance with these objectives, Amnesty International wrote to the Attorney General of Illinois on 16 February 1990 expressing concern about the above allegations and the apparent inadequacy of the OPS investigations. Amnesty International asked what measures were being taken to ensure that detainees in police custody are not subjected to torture or other cruel, inhuman or degrading treatment and to know whether action was being taken against any police officers in the light of the reports. The First Assistant Attorney General replied in May 1990, stating that Illinois criminal law and the United States Constitution specifically prohibit the torture of persons in police custody and that complaints to the OPS were investigated by independent civilian personnel. He stated that the proper authority to address the complaints at this stage was the Cook County State's Attorney or the United States Attorney for the Northern District of Illinois. (The US Attorney is responsible for investigating alleged civil rights violations by state officials under federal civil rights legislation.) Amnesty International

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ILLINOIS, USA: AMNESTY INTERNATIONAL CONCERNS

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had written to the US Attorney for the Northern District of Illinois in February 1990, enclosing a copy of its letter to the Illinois Attorney General asking whether his office would investigate the allegations. No reply was received.

In December 1990 Amnesty International wrote to both the Cook County States Attorney and to the new US Attorney recently appointed for the Northern District of Illinois, asking them to investigate the allegations.

Amnesty International has also called upon the Chicago city authorities to instigate a full inquiry into the allegations.



INTERNATIONAL SECRETARIAT
1 Easton Street London WC1X 8DJ
United Kingdom

TG AMR 51/90/02

The Hon Neil Hartigan
Attorney General
500 S Second Street
Springfield, IL 62706
USA

16 February 1990

Dear Attorney General

I am writing to inquire about reports Amnesty International has received concerning the alleged torture of suspects held in custody in Chicago's Area 2 police station at 91st Street and Cottage Grove Avenue. The reports, if true, suggest that suspects in police custody may have been subjected to systematic torture and ill-treatment over a period of a dozen years up to 1984.

One of the most serious - and well-documented - allegations of torture was made by Mr Andrew Wilson who was arrested on 14 February 1982 and charged with the murders of two police officers. On arrival at the Area 2 station Andrew Wilson says he was beaten and kicked in the eye; a plastic bag was placed over his head preventing him from breathing until he bit a hole in it; he was handcuffed to a wall; alligator clips were attached to his ears, then nostrils and fingers, and he received electric shocks from a device resembling a small generator. During some of the electric shock torture he was handcuffed between two wall rings over a hot radiator, sustaining burns to his chest, thigh, face and chin. Another electrical device resembling a cattle prod was applied to his leg and groin. He was threatened with death, a gun was placed in his mouth and the trigger pulled. Wilson signed a confession after 13 hours in police custody. He claims to have been further abused while in transit to the lockup: his penis was grabbed and pulled, and he was hit over the head with a service revolver.

The desk officer at the lockup refused to admit Wilson, apparently because of the severity of his injuries. He was taken to a hospital but says his police escort told him to refuse treatment. This he eventually did. On admission to the Cook County Jail the following day, Andrew Wilson's injuries were examined and extensively photographed. According to reports, Dr John Raba, medical director of the hospital serving the inmates of Cook County Jail, alerted Police Superintendent Richard Brzeczek to Wilson's injuries and the allegations that he had been given electric shocks and urged that a thorough investigation be undertaken. Superintendent Brzeczek personally ordered a Police Department's Office of Professional Standards (OPS) investigation into the matter. However, a delay of a year and a half apparently ensued before the case was assigned to an investigator and, according to reports, it was not given a high priority. Two years later the OPS recommended that the complaint be dismissed as "not sustained".

The OPS' failure to act on the evidence of Andrew Wilson's torture is deeply disturbing and contrasts sharply with the ruling of the Illinois Supreme Court when it reviewed Andrew Wilson's criminal conviction on appeal (he was convicted of the murder of the two police officers in August 1982 and sentenced to death). In 1987 the court overturned the conviction and ordered a new trial in light of evidence that Andrew Wilson's injuries had been sustained while in police custody on the day of his arrest, with the consequent risk that his confession may have been obtained by coercion:

"The evidence here shows clearly that when the defendant was arrested at 5:15 am on February 14, he may have received a cut above his right eye but that he had no other injuries; it is equally clear that when the defendant was taken by police officers to Mercy Hospital sometime after 10 o'clock that night he had about 15 separate injuries on his head, chest and leg. The inescapable conclusion is that the defendant suffered his injuries while in police custody that day."

Andrew Wilson's medical file was also reviewed by Dr Robert Kirschner, deputy chief medical examiner of the Cook County Institute of Forensic Medicine. Dr Kirschner has had considerable experience in identifying and treating victims of torture. In a deposition made after he had studied the reports Dr Kirschner was of the opinion that Andrew Wilson's description was consistent with his having been tortured with electric shocks.

Andrew Wilson subsequently filed a civil lawsuit against the city of Chicago, the Police Department and three named Detectives. He alleged that the police had tortured him; that one officer had used electric shock torture on him while other officers had participated in the conspiracy by failing to report the torture; and that it was a de facto policy of the city of Chicago and the Police Department to mistreat persons suspected of killing police officers. The suit came to trial in February 1989 but ended in a mistrial after the jury deadlocked on its verdict. Following a second trial in June 1989 the jury affirmed that Andrew Wilson's constitutional rights had been violated on 14 February 1982. It affirmed that in 1982 the city had had a de facto policy, practice or custom whereby the police were allowed to abuse those suspected of killing policemen. However, it found that Wilson had not been subjected to excessive force due to this policy. The three police officers were cleared of all charges. The case is currently pending appeal before the Seventh Circuit Court of Appeals.

Andrew Wilson's alleged torture appears not to have been an isolated case. Attorneys for Mr Wilson have located more than 20 other persons who allege that they too were tortured by police officers from the Area 2 station between 1972 and 1984. Their accounts contain disturbing similarities to Andrew Wilson's description of his treatment. The persons concerned were either detained in custody at the Area 2 police station or driven to remote areas by Area 2 officers. Their allegations were that they had been beaten; some were hit over the head with guns and other hard implements; eight were subjected to electric shocks; some had plastic bags put over their heads. One says his finger was placed in a bolt-cutter and he was taken to the roof of the building with the threat that he would be thrown off it. A woman testified under oath that she was handcuffed to a windowsill in an interview room for nearly 24 hours without access to a lavatory.

At least twelve of those alleging torture filed OPS complaints, but we understand these were dismissed as "not sustained". Two of those allegedly tortured later filed civil lawsuits against the city of Chicago and were awarded damages. Darryl Cannon claimed he was tortured on 2 November 1983 by officers from the Area 2 station who drove him to a remote area and played 'Russian Roulette' by pointing a gun at his head and pulling the trigger. They also put the gun in his mouth. He received electric shocks to the testicles and mouth. Philip Adkins, arrested on 7 June 1984, was also allegedly taken to an isolated place by Area 2 detectives. He was hit in the stomach and testicles until he defecated and urinated involuntarily. He was awarded \$25,000 in settlement of his suit in May 1988.

Another alleged torture victim, Gregory Banks, had his conviction for murder and armed robbery overturned by an Illinois appellate court in December 1989. A new trial was ordered on the grounds that his confession should have been suppressed as involuntarily given. Banks was arrested on 28 October 1983 and taken to the Area 2 station. He claimed he was handcuffed, threatened with death and a gun was placed in his mouth. He was repeatedly kicked and beaten with a flashlight; a plastic bag was twice put over his head. The police later denied wrongdoing but a doctor who examined Banks' injuries testified that they were consistent with his account of what had been done to him. Remanding the case for retrial, the court noted:

"...while we no longer see cases involving the use of the rack and thumbscrew to obtain confessions, we are seeing cases, like the present case, involving punching, kicking and placing a plastic bag over a suspect's head to obtain confessions...When trial judges do not courageously and forthrightly exercise their responsibility to suppress confessions obtained by such means, they pervert our criminal justice system as much as the few misguided law enforcement officers who obtain confessions in utter disregard of the rights guaranteed to every citizen - including criminal suspects - by our constitution."

Amnesty International opposes the torture and other cruel, inhuman or degrading treatment or punishment of all prisoners without reservation. It calls on governments to implement the provisions of the United Nations Declaration on the Protection of All Persons from Torture and other Cruel, Inhuman or Degrading Treatment or Punishment. This declaration stipulates that governments are responsible for investigating torture allegations, instituting criminal proceedings in torture cases and compensating the victims.

Amnesty International is concerned at the shortcomings of the OPS investigation carried out in Andrew Wilson's case. In the light of the considerable evidence, both photographic and documentary, suggesting that he had been tortured, it is concerned at the very lengthy delay in initiating the investigation, and at the eventual dismissal of the complaint. While Amnesty International is not in a position to verify this or the other allegations of torture brought to its attention, it is concerned at the similarities in the treatment alleged, particularly the use of electrical devices to perform electric shock torture on suspects. If true, these reports suggest that over a period of years detainees in the custody of Chicago's Area 2 police officers were systematically tortured and ill-treated, but that the OPS investigative procedure failed either to identify those officers responsible, or to prevent abuse of prisoners from

recurring.

An important safeguard in protecting the rights of prisoners during interrogation and custody is the certainty that all complaints of torture will be impartially and effectively investigated. I should appreciate learning from you what fact-finding methods are used to investigate cases of alleged torture in police custody; whether the findings are made public, and whether the Police Department's Office of Professional Standards is an independent body.

Amnesty International respectfully urges that the Illinois state authorities demonstrate their total opposition to torture by making clear to all law enforcement personnel that torture will not be tolerated under any circumstances. It should be made clear during the training of all officials involved in the custody, interrogation or treatment of prisoners that torture is a criminal act. They should be instructed that they are obliged to disobey any order to torture. In this regard I would draw your attention to Article 5 of the United Nations Code of Conduct for Law Enforcement Officials, a copy of which I enclose for your information.

Finally, given that it is the responsibility of governments to ensure that those responsible for torture be brought to justice, I should be grateful to know whether further action is anticipated against any police officers in light of the above reports; also to know what measures are being taken to ensure that detainees held in police custody are not subjected to torture or other cruel, inhuman or degrading treatment.

I look forward to hearing from you at your earliest convenience. I am sending a copy of this letter to Ira Raphaelson, Acting United States Attorney for the Northern District of Illinois.

Yours sincerely



Ian Martin
Secretary General

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INTERNATIONAL SECRETARIAT
1 Easton Street London WC1X 8DJ
United Kingdom

TG AMR 51/90/02

[redacted]
Acting United States Attorney for the
Northern District of Illinois
Office of the US Attorney
Chicago, IL 60604
USA

b6 -3
b7C -3

16 February 1990

Dear [redacted]

I enclose a copy of the letter Amnesty International has today sent to
The Hon Neil Hartigan, Attorney General of Illinois.

Given the very serious nature of the reports Amnesty International has
received I should be grateful for your comments on them, and to know
whether a federal investigation will be undertaken into this matter.

Yours sincerely

A handwritten signature in black ink, appearing to read "Ian Martin".

Ian Martin
Secretary General

The following is a typed version of the original letter below which produced a poor copy.

Mr Ian Martin
Secretary General
Amnesty International
1 Easton Street
London WC1X 8DJ
UNITED KINGDOM

Dear Mr Martin;

I thank you for sending our office a copy of your February 16, 1990 letter which was misdirected, and I thank you for your concern and attention to this matter. In answer to your questions and concerns about the Office of Professional Standards, the Office of Professional Standards is an independent investigative Department of the Chicago Police Department which was created in 1974. The Office of Professional Standards (OPS) has a civilian director and all complaints are investigated by civilian personnel who have never been employed by the Chicago Police Department. During the course of their investigations, the OPS investigators conduct interviews and collect evidence into allegations of abuse and excessive force by sworn Chicago Police personnel. Findings of OPS investigations are made public and complainants are informed of the results of the investigation.

As to your concerns about the torture of a person in custody, you should be advised that Illinois Criminal Law specifically prohibits it. Specifically, Illinois Revised Statutes Chapter 38, Section 103-2 prohibits the use of any unlawful means to obtain statements, admissions or confessions and it provides that all persons in custody be treated humanely. Likewise, you should note that the fair treatment of accused persons is a fundamental precept of the United States Constitution. The 8th Amendment of the United States Constitution prohibits the infliction of cruel and unusual punishment and the 14th Amendment makes this law applicable to each of the states.

Furthermore, in the United States our constitution and laws provide for an adversarial system of justice for all persons with built in checks and balances. All persons accused of a crime for which a sentence of imprisonment could be imposed are given court appointed defense counsel at no cost. The allegations which you have raised in your letter could and should have been raised by a defense attorney in pre-trial motions before the judge.

In fact, there is an additional multi-level system of review concerning the type of police brutality you have alleged this City of Chicago has engaged in. OPS is only the first of many levels that an accused can go to. From OPS or independent of OPS an individual can report police brutality to the Chicago Police Superintendent. The Police Superintendent can take administrative action and suspend officers or he can recommend longer suspension or termination and send the case the City Corporation Counsel's Office. The City Corporation Counsel's Office, in such a case, acts as the prosecutor before the Chicago Police board. The Chicago Police Board is a nine member civilian tribunal which conducts hearings and decides if officers referred to it by the Superintendant are to be fired, suspended or exonerated. Additionally, in cases of abuse and torture, the cases are brought to the Cook

Country State's Attorney and/or the United States Attorney for the Northern District of Illinois for the prosecution of the offending officer. Lastly, any victims of Chicago Police abuse or torture can bring a federal Civil Rights action in the United State District Court for the Northern District of Illinois against the Chicago Police Department and the offending officers.

After having reviewed your letter and concerns, at this point in time, the proper authority to address your complaints would be Cook County State's Attorney, [redacted]
[redacted] or the United States Attorney for the Northern District of Illinois, Eastern Division.

b6 -6
b7C -6

I hope my response has been helpful to you and again I thank you for your concern and attention to this matter. If I can be of any further assistance to you please feel free to contact me.

Very truly yours,

[redacted]
First Assistant Attorney General
Office of the Attorney General
100 West Randolph Street
Chicago, Illinois 60601
[redacted]

b6 -3
b7C -3

JMC/cr

Memorandum



To : SAC, CHICAGO

Date 12/4/90

From : SA [redacted]

b6 -1
b7C -1

Subject: CIVIL RIGHTS PROGRAM,
CHICAGO DIVISION

On 12/4/90, FBIHQ Analyst [redacted] contacted the writer of this memorandum to inquire into the status of the investigations listed below:

44A-77922
44A-77073
177A-77323
177A-78026
44A-77667
44A-78282
44A-78285
44A-78286
44A-78034
44A-78234

Analyst [redacted] advised that the above cases have come up for review on the FBIHQ tickler system. She further advised that she will set new ticklers at FBIHQ for the above cases for 12/21/90 in anticipation of appropriate communications from Chicago.

b6 -1
b7C -1

11-Chicago
1>Each case listed above.

1/25/91
Instructions from HQ, CIV,
Send them copy of SI airtel -
Seek AUSA opinion as statute
of limitations has apparently run -
Submit closing report by 2/13/91.

R-set T for 2/12/91
JMC

(R)

44A-78234-6X1

SEARCHED	INDEXED
SERIALIZED	FILED
DEC 4 1990	
FBI - CHICAGO	JG
[Redacted]	[Redacted]

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 2/20/91

1 TO : DIRECTOR, FBI
 2 (ATTENTION: CRIMINAL INVESTIGATIVE DIVISION,
 3 CIVIL RIGHTS UNIT)
 4 FROM : SAC, CHICAGO (44A-CG-78234) ~~(X)~~ (SQUAD 12)
 5 SUBJECT : COMMANDER JOHN BURGE,
 6 CHICAGO POLICE DEPARTMENT,
 7 CHICAGO, ILLINOIS.
 8 [REDACTED] - VICTIM;
 9 CIVIL RIGHTS;
 OO: CHICAGO

b6 -2
b7C -2

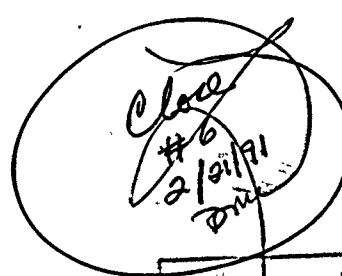
Reference Chicago FD-610 to the Bureau, dated
 10/26/90.

Enclosed for the Bureau are two (2) copies of a Letterhead Memorandum (LHM) with an attached copy of Springfield airtel and FD-302 reflecting interview of the victim in captioned case. One (1) copy of the LHM was also forwarded to the UNITED STATES ATTORNEY'S OFFICE, Chicago, Illinois.

- 1* -

15 2 - Bureau (Encls. 2) (w/Attachments)
 16 ① - Chicago

17 JLS:rcb
 18 (3) *J*



44A-CG-78234-7
 MAR 15 1991

Approved: _____ Transmitted _____
 (Number) (Time)

FBI - CHICAGO



U.S. Department of Justice

Federal Bureau of Investigation

In Reply, Please Refer to
File No.

219 South Dearborn
Chicago, Illinois 60604

February 20, 1991

COMMANDER JOHN BURGE;
CHICAGO POLICE DEPARTMENT;
CHICAGO, ILLINOIS;
[redacted] - VICTIM;
CIVIL RIGHTS

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

On February 20, 1991, all available facts in captioned case were discussed with Assistant United States Attorney (AUSA) [redacted]. At that time, AUSA [redacted] advised that since the alleged offense was committed outside the five (5) year Statute of Limitations, he would have to decline prosecution in this matter.

In view of the above, no further investigation is being conducted by the Chicago Office and this matter is considered closed.

*1991 AUSA 2/20/91
DECLARATION*

- 1* -

*- ST. of LMS.
5 yrs.*

2 - Bureau (ENCLS. 2) (w/Attachments)
1 - USA, Chicago
(ATTN: AUSA [redacted])
1 - Chicago (44A-CG-78234)

b6 -3
b7C -3

JLS:rcb
(4)

Date 7/26/91

Birth Credit Criminal Death INS Marriage* Motor Vehicle Other _____
 Driver's License

To		Buded
Return to	SA [redacted]	b6 -1 b7C -1
	12	File number <u>44A-C6 78234</u>

Name and aliases of subject, applicant, or employee, and spouse

(1) PEOPLE v. BANKS, 549 N.E.2d 766, 771 (1989)

Address
Residence ILLINOIS Appellate Court

Business RONI

Former (2) Adkins v. BOFFO et al 86 CV-3039 NORGLE
open 5-1-86 / closed 5-18-88

*Date and place of marriage _____
(if applicable)

Race	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Age	Height	Weight	Hair	Eyes
------	---	-----	--------	--------	------	------

Birth date	Birthplace
------------	------------

Arrest Number	Fingerprint classification	Criminal specialty
---------------	----------------------------	--------------------

Specific information desired	Social Security Number
------------------------------	------------------------

Results of check

LIST ANY USDC CASES WHERE

DEFENDANTS ARE Chicago Police Department
AND / OR

JON BURGE JONATHAN BURGE

over

44A-Ch-78234-
74

BURGE
CASES

JOHN BURGE

84 CV-5909 D6

open 7-10-84

closed 2-28-86

Williams vs City of Chgo.

JOHN BURGE

86 CV-2360 D4

open 4-7-86

closed 8-8-89

Wilson vs City of Chgo.

JOHN BURGE

89 CV-7915

open 11-27-89

closed 8-31-90

James. vs. BURGE, ET AL

JON BURGE

87 CV-1629 D1

open 2-20-87

closed 9-11-87

Daniel Sr. vs BURGE

Memorandum

To : Director, FBI (44A-CG-78243)

Date 2/1/91

From : SAC, CHICAGO (44A-CG-78243)

Subject : COMMANDER JOHN BURGE,
CHICAGO POLICE DEPARTMENT,
[redacted] VICTIMb6 -2
b7C -2

CIVIL RIGHTS

This case will be delinquent.

Date of Bureau deadline: 12/27/91

Reason for the delinquency: PRIORITY APPLICANT MATTERS

Date airtel report letter LHM will reach the Bureau:

2/19/91

X No administrative action necessary.

44A-CG-78243-8

FBI/DOJ

SEARCHED	INDEXED
SERIALIZED	FILED
FEB 1 1991	
FBI - CHICA	
[redacted]	

Dme

Memorandum



Subject

Date

Notice of File Closing
CIVIL RIGHTS MATTER

22 MAR 1991

To

From

Director
Federal Bureau of Investigation

John R. Dunne
Assistant Attorney General
Civil Rights Division

Reference is made to your field office file captioned as on
the attached closing form and numbered CG 44A-78234.
This matter has been closed as of the date on the attached form.

Get ready - we
maybe looking @ commander
Burge again soon.

44A-CG-78234-9

SEARCHED	INDEXED
SERIALIZED	FILED
APR 05 1991	
FBI - WASH D.C.	

b6 -1
b7C -1

19-cv-4048(FBI)-271

closed 2-20-91

22 MAR 1991

144-23-2321

John Burge
Chicago Police Department;
[redacted] Victim

March 15, 1991

b6 -2
b7C -2

Statute of limitations expired.

[redacted]

ff's
368-4152
cont
202
514-4152

Civil Rights

b6 -3
b7C -3

19-cv-4048(FBI)-272

TRANSMIT VIA: AIRTEL

CLASSIFICATION: _____

DATE: 4/29/91

FROM: Director, FBI

TO: SAC, Chicago (44A-CG-78234)

JOHN BURGE,
CHICAGO POLICE DEPARTMENT,
CHICAGO, ILLINOIS;CIVIL RIGHTS
OO: CHICAGO

[REDACTED] VICTIM

b6 -2
b7C -2

Reference DOJ closing memorandum dated 3/22/91.

Enclosed are two copies of a Department of Justice letter dated 4/19/91 requesting investigation in captioned case.

This request has been reviewed by the Civil Rights Unit, FBIHQ, and unless reasons exist to the contrary, you are to complete the requested investigation in accordance with the provisions of Section 44, Manual of Investigative Operations and Guidelines, and submit results within 21 workdays of the receipt of this communication.

XXXXXXXXXXXXXX

Remarks:

Enc. (2)

1991
 DOJ
CLOSING MEMO
DECLINATION
REOPENING

44A-CG-78234-10

SERIALIZED	FILED
MAY 06 1991	
[REDACTED]	

b6 -1
b7C -1

JRD:DLB:CMM:vms
DJ 144-23-2321

John Burge,
Chicago Police Department,
Chicago, Illinois:
[redacted] - Victim
CIVIL RIGHTS

b6 -2
b7C -2

APR 19 1991

Director
Federal Bureau of Investigation
Attn: CRU, Rm. 1B948, TL254

John R. Dunne
Assistant Attorney General
Civil Rights Division

Reference is made to your field office file number CG 44A-78234 and your memorandum of 2/28/91 enclosing a letterhead memorandum dated 2/20/91.

Please conduct the following additional investigation:

1. Determine the dates of all proceedings, including any hearings, trials and direct or collateral appeals, in which the victim's allegedly coerced confession was used to obtain or support a conviction, and report regarding those proceedings.

2. Interview [redacted]

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

[redacted] regarding his knowledge of allegations that subject Burge and other members of the Chicago Police Department have conspired to coerce confessions and/or to use coerced confessions against suspects. Investigate all incidents which occurred after January 1, 1986, and any incidents in which court proceedings, including direct or collateral appeals or actions by a victim alleging deprivation of civil rights in which a police officer provided written or oral testimony (such as the Wilson case referred to by [redacted], were pending on or after January 1, 1986, to determine whether a pattern of such conduct exists. A copy of [redacted] letter to the Attorney General with attachments is attached hereto for your reference.

1991
REOPENING of Case



Office of the
COOK COUNTY PUBLIC DEFENDER

200 WEST ADAMS STREET • 4TH FLOOR • CHICAGO, IL 60606 • (312) 609-2040



Public Defender

b6 -6

b7C -6

CPM CRT
1991
C-25
DIVISION
P-1
C-25
P-1
C-25

March 15, 1991

Mr. Richard Thornburgh
Attorney General
Department of Justice
Constitution Avenue and 10th Street, N.W.
Washington, D.C. 20530

Re: Civil Rights Violations Involving Criminal Suspects

Dear Sirs:

I am writing in response to an article that appeared in the March 13, 1991 New York Times, Chicago edition. In that article, a copy of which is enclosed, [redacted] a spokesperson in your office, requested information about incidents of police brutality occurring anywhere in this country. Enclosed you will find documentation regarding numerous instances of police brutality from the Chicago area.

b6 -6
b7C -6

I am an attorney in the Cook County Public Defenders office who has been active in community groups dealing with the issue of police brutality. My employment as a public defender has brought me into direct contact with persons who have alleged that they were victims of police misconduct while they were in police custody. The 490 attorneys in my office represent over 230,000 criminal suspects each year. Of them, fully eighty percent are African-American males. While handling an appeal for one of my clients, I discovered that some officers in the Chicago Police Department were involved in the systematic torture of black male suspects in order to coerce them to make confessions.

This client's name was [redacted]. He testified during a suppression hearing that he was abused by Officer Jon Burge during his interrogation. Specifically, [redacted] asserted that Officer Burge placed a loaded gun to his head and played Russian roulette. When this failed to elicit a confession, Officer Burge resorted to the use of a plastic typewriter cover. He placed the cover tightly on [redacted] face until he became unconscious due to oxygen deprivation. When [redacted] continued to resist, Officer Burge repeated the process two more times. Finally, [redacted] relented.

b6 -2
b7C -2

44-37
DEPARTMENT OF JUSTICE
MAR 26 1991
[redacted] was interviewed in prison by an FBI agent by the name of [redacted] (Effingham, Illinois office). This conference, arranged at my request and in my presence, took place on October 29, 1990. I heard nothing further from [redacted] following this interview. On October 31, 1990, I
CIV. RIGHTS DIV.

b6 -1,-2
b7C -1,-2

Mr. Richard Thornburgh
March 15, 1991
Page 2

telephoned [redacted] in the Civil Rights Division of the Justice Department. He advised me that since [redacted] interview with Officer Burge was conducted on October 30, 1985, the five year statute of limitations had run and there was really nothing that could be done. He suggested that the limitations period could be extended if I could show that there was a conspiracy of silence or a coverup of Officer Burge's conduct. The enclosed documentation indicates the existence of such an understanding.

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

While investigating [redacted] case, I discovered information that lead me to conclude that Officer Burge's misconduct was not isolated. Indeed, I learned that compared to other suspects "interviewed" by Burge, my client got off relatively easy.

b6 -2
b7C -2

[redacted] was another suspect interrogated by Burge. He must have been pretty stubborn because during the course of his interrogation Officer Burge had to resort to some very unseemly contrivances in order to gain [redacted] cooperation. Specifically, [redacted] was hooked up to a small electrical generating device, which, when cranked, shocked [redacted] and sent pain coursing through his body. There were photographs of scab marks on [redacted] where the alligator clips were attached. In addition [redacted]

b6 -2
b7C -2

[redacted] Burn scars were detected in photographs.

In spite of these photographs, and the testimony of physicians who examined [redacted] the trial court chose to believe the testimony of the police officers when they maintained that [redacted] confession was voluntarily given. [redacted] was convicted and sentenced to death. His conviction and death sentence were overturned when the Illinois Supreme Court ruled that the confession should not have come into evidence. A copy of that decision, as well as an article from the Reader newspaper describing the [redacted] case, is enclosed.

b6 -2
b7C -2

Attorneys who represented [redacted] in a subsequent federal civil rights suit he filed discovered additional examples of black male suspects who alleged that they were tortured while in police custody. Interestingly, these attorneys only discovered these other cases when they were contacted by an anonymous person who wrote on police department stationary. After contacting these people, many of whom were incarcerated in Illinois prisons, these

b6 -2
b7C -2

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Page 3

attorneys compiled a list of over 25 cases involving defendants who claimed to have been abused by Officer Burge and some of his subordinates. A copy of this list and brief description of these cases is enclosed. [redacted] lost his civil rights suit (which is now pending on appeal) because the court refused to allow this and other damaging evidence to be heard by the jury. For example, the court refused to permit a Cook County medical examiner and expert on torture to testify that [redacted] was indeed tortured by Officer Burge.

b6 -2
b7C -2

Efforts to have Officer Burge disciplined have been completely ignored. Despite numerous complaints, the police department has repeatedly refused to punish Officer Burge. Amazingly, Burge has actually been promoted to Commander. He is now one of the most senior members of the Chicago police force. The message this sends to Burge's subordinates is clear. It is permissible to abuse criminal suspects, just "don't get caught."

And it seems that the only evidence that motivates local governmental and law enforcement agencies to take action against the errant behavior of some of their officers is a videotape catching the offender in the act. If this was the same standard applied to all criminal cases, our prisons would be empty. In Chicago, neither the former State's Attorney (and now Mayor), Richard M. Daley, nor the city counsel has chosen to discipline Officer Burge or to authorize an investigation into these allegations. This is remarkable in light of the Supreme Court decision in Wilson, evidence presented at city council hearings and in court, and an Amnesty International report (copy enclosed) requesting that such an investigation be undertaken.

I hope that the information I have provided you will assist your inquiry. I am prepared to provide you with additional information and testimony of witnesses should you request them. It would truly be a tragedy if the integrity of the law enforcement profession could continue to be sullied by the outrageous conduct of a few officers who are able to escape punishment. The Los Angeles Police Department appears ready to act. Hopefully your investigation will encourage other departments to do likewise.

dincoradv

[redacted]
b6 -5
b7C -5

Mr. Richard Thornburgh
March 15, 1991
Page 4

Enclosures

cc: Mr. William S. Sessions, Director
Federal Bureau of Investigations
9th Street and Pennsylvania Avenue, N.W.
Washington, D.C. 20535

The Honorable John Conyers, Jr.
2426 Rayburn House Building
Washington, D.C. 20515

The Honorable Donald Edwards
2307 Rayburn House Building
Washington, D.C. 20515

The Honorable John Lewis
501 Cannon Building
Washington, D.C. 20515

The Honorable Paul Simon
462 Dirksen Building
Washington, D.C. 20510

[redacted]
Public Defender of Cook County
200 W. Adams, Fourth Floor
Chicago, IL 60606

b6 -6
b7C -6



Paul Hoeffler/The New York Times

Members of Congressional Black Caucus meeting yesterday with William S. Sessions, center, Director of the Federal Bureau of Investigation, about police

brutality. With Mr. Sessions were, from left, Representatives Solomon P. Ortiz, John Conyers Jr., Edolphus Towns and Mervyn M. Dymally.

U.S. Inquiry Sought in Police Beating

By DAVID JOHNSTON
Special to The New York Times

WASHINGTON, March 12 — Outraged over the videotaped beating of a suspect by the Los Angeles police last week, members of the Congressional Black Caucus asked the Justice Department today to conduct a wide-ranging inquiry into police brutality in the city.

Representative John Conyers Jr. of Michigan, a senior member of the caucus, said after a meeting with William S. Sessions, Director of the Federal Bureau of Investigation, that Mr. Sessions was noncommittal about widening the bureau's inquiry into the incident, but agreed to relay the request to Attorney General Dick Thornburgh.

Dan Eramian, a spokesman for Mr. Thornburgh, said today that the Attorney General would meet with caucus members to discuss the case, but had not decided when the meeting would take place. He added that anyone with information about other incidents of police brutality anywhere in the country should tell the bureau.

The beating has ignited interest in police brutality issues. Representative Don Edwards, a California Democrat who heads the Judiciary Subcommittee on Civil Rights, said today that he would hold hearings next week on the subject, calling it "an epidemic."

'Absolutely Horrified'

Representative John Lewis, a Democrat of Georgia, said the behavior of the police in Los Angeles was "symbolic of what is happening around the country." Neither Mr. Lewis nor Mr. Edwards provided details of specific incidents.

Mr. Sessions declined to be interviewed about the meeting with the caucus or the FBI investigation. The bu-

reau is seeking to learn whether the Los Angeles police officers involved in the beating on March 3 violated the suspect's civil rights, thus warranting Federal charges.

Mr. Conyers, a Democrat, said he was "absolutely horrified" by the episode, which he said differed from other incidents of police misconduct in Los Angeles and elsewhere only in that it happened to be videotaped by an amateur photographer who lived nearby. The videotape was seen on national television over the Cable News Network and other networks.

The lawmaker said Mr. Sessions told the group that the F.B.I. was investigating the beating as an isolated incident. But, Mr. Conyers said, "We want a systematic investigation of the his-

Is there a history of violence among the Los Angeles police?

tory of violence by the Los Angeles Police Department."

The videotape shows more than a dozen uniformed officers crowding over a prone man, later identified as Rodney Glen King, an unemployed construction worker, who the police said had led them on a car chase. The tape showed some officers repeatedly hitting him with their nightsticks and kicking him in the head while others stood by. Mr. King suffered a broken leg and facial injuries.

Daryl F. Gates, the Los Angeles Chief of Police, has said that he will seek felony charges against 3 of the officers involved and that all 15 officers who took part will face departmental disciplinary charges.

The beating has brought calls for Chief Gates's resignation. Today, in a full-page advertisement in The Los Angeles Times, the American Civil Liberties Union urged the chief to resign. The ad included a photograph of an officer wielding a nightstick, with the headline, "Who do you call when the gang wears blue uniforms?"

The chief has said he will not resign, and he can only be removed from office for cause by a five-member commission that appointed him.

A grand jury in Los Angeles held a second day of closed hearings today to determine whether any criminal charges should be filed against the officers involved.

'Not an Aberration'

After the incident, Chief Gates called it an "aberration" in an otherwise well-disciplined department. But today several members of Congress from the Los Angeles area disputed that.

"It certainly is not an aberration," said Representative Maxine Waters, a Democrat. "This is the order of the day in Los Angeles."

Mr. King is black, but Chief Gates has insisted that race was not a factor in the beating. Mr. King's lawyers have said they do not intend to make race an issue.

But several lawmakers said today that the incident had crystallized the perception that the Police Department of 8,300 officers often uses excessive force against blacks. They said a broad Federal investigation was necessary because the local authorities had been unable to halt what they referred to as a "pattern of abuse" by the police.

N.Y.T. March 13, 1991, Chicago

FACT SHEET: EVIDENCE OF
POLICE TORTURE BY COMMANDER JON BURGE AND HIS MEN

This fact sheet is based on information gathered by the attorneys for [redacted] in the Federal civil rights case of

b6 -2
b7C -2

Wilson v. City of Chicago, 86-C-2360, and focuses on the use of electroshock and other forms of torture by Commander Jon Burge and others under his command which have been documented by court testimony, by interviews with the victims, by court decisions, and/or by jury verdict. Much of this information has also been confirmed by a police source, who [redacted]

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

[redacted] and who communicated anonymously by letter with [redacted] because of fear of police retaliation. [redacted] have also documented several additional cases of electroshock and torture, unrelated to Burge and his associates, and former O.P.S. Director Fogel has admitted, under oath, that he kept a file of electroshock and torture cases which were reported to the Office of Professional Standards. For purposes of this fact sheet, we will use the definition of torture which was accepted to by former police Superintendent [redacted] in Wilson - a definition which includes electroshock, the use of plastic bags and typewriter covers to simulate suffocation [dry submarino]; simulating Russian Roulette and sticking guns in the victim's mouth; beating on the bottoms of feet and testicles; and hanging someone from a hook by handcuffs which are attached to the victim's wrists.

Although the trial judge did not permit the all white jury in the second Wilson civil rights trial to hear the vast majority of the torture evidence against Burge and his men, it nonetheless found that the police department had a policy and practice of police abuse and torture. Amnesty International has also been informed of this information, and has called for a thorough, independent investigation; unfortunately there has been none forthcoming. In all of the forty cases documented here, neither the O.P.S. nor the police department has ever disciplined or even reprimanded Burge or any other detective or officer for these acts of torture. In fact, Burge has been repeatedly promoted and is now the Commander of Area III Detective Division.

I. ACTS OF ELECTROSHOCK AND TORTURE BY BURGE AND HIS MEN

A. 1973-1974

1. [REDACTED] nicknamed [REDACTED] was taken to Area II headquarters on [REDACTED] at approximately 4 a.m. Jon Burge presided over his interrogation, during which, in an effort to obtain a confession, plastic bags were put over [REDACTED] head, causing him to pass out three separate times. Burge also applied the end of an electroshock device, housed in a black box, to [REDACTED] handcuffs, giving [REDACTED] an intense shock, and [REDACTED]
[REDACTED] The shock was extremely painful and caused [REDACTED]
[REDACTED] testified to much of this during a subsequent Motion to Suppress. He was

b6 -2
b7C -2

held, interrogated and tortured for approximately six hours.

[redacted] was not permitted to testify at the Wilson civil rights trials.

2. [redacted] was arrested by Burge and then Detective, now commander, [redacted] They drove him around in their police vehicle, pointed their guns at him, and then pulled the triggers, but the chambers were empty. He was taken to Area II where he was interrogated and beaten by Burge and [redacted] for one and one-half hours, during which time they [redacted]

b6 -2,-4
b7C -2,-4

[redacted] When [redacted] then a police board member, came to Area II to inquire about [redacted] he was released. An OPS complaint was subsequently filed. [redacted] was not permitted to testify at the Wilson civil rights trials.

3. [redacted] was interrogated on two occasions in 1973 by Burge and [redacted] The first time they showed him a [redacted]

b6 -2,-4
b7C -2,-4

[redacted] Later in 1973 Burge and [redacted] put [redacted] while handcuffed, on a table, and hit him. [redacted]

[redacted]
[redacted] was struck and beaten by Burge and [redacted] after being arrested and was refused access to an attorney. He mentioned [redacted] [redacted] and [redacted] were not permitted to testify at the Wilson civil rights

b6 -2,-4
b7C -2,-4

trials.

B. 1978-1980

4. was arrested again on

and brought to Area II where he was interrogated by Burge. The black box was on the table and Burge came in the interrogation room when [redacted] was handcuffed and said "fun time again".

[redacted] was handcuffed to the wall, and hit in the head with a pistol. Apparently referring to [redacted] Burge said "you can ask your little fat friend about the box." Burge shocked [redacted]

b6 -2
b7C -2

was not permitted to testify at the Wilson civil rights trials.

b6 -2,-6
b7C -2,-6

5. [redacted] was arrested at his [redacted]
on [redacted] and taken to Area II where he was hand-
cuffed to a ring on the wall. Burge brought out [redacted]
[redacted] and said he was going to
do to [redacted] what he had done to [redacted]. Burge shocked [redacted]
[redacted] almost passed out. Burge
also put a bag over [redacted] head and [redacted] had to bite a hole
in it to breathe. Burge was slapping and questioning him while
doing this. [redacted] filed an O.P.S. complaint.

was not permitted to testify at the Wilson civil rights trials.

6. was arrested and taken to Area II on

[redacted] and interrogated about [redacted]
[redacted] Burge hit him on the head with a long

[redacted]
[redacted] was handcuffed and hung by his handcuffed wrists from a hook on the door with his feet off the ground.

b6 -2,-4,-6
b7C -2,-4,-6

During the interrogation Burge was accompanied by Det. [redacted]
[redacted] who Burge introduced as a [redacted] Burge said "he [redacted] and he wishes he could kill you." Co-arrestees [redacted] were also interrogated and beaten by Burge at the same time, and Burge obtained a confession from one of them. [redacted] filed an O.P.S. complaint through his [redacted] and testified about abuse at his criminal trial and at the [redacted] civil rights trial. [redacted] however, was not permitted to name Burge as his attacker in his testimony at the second Wilson civil rights trial. Burge denied the beating under oath at the criminal trial.

7. [redacted] were arrested in [redacted] b6 -2,-4
[redacted] by Burge and Area II Detective [redacted] b7C -2,-4
Burge said "wait until we get you back to the horror chamber. We know how to squeeze a man's nuts." When they returned to Chicago, Burge asked if the man on duty was the one who killed Fred Hampton and Mark Clark. Burge said "when we get through with you you'll be glad to tell us what we want."

At Area II Burge presided over the interrogation of [redacted]
[redacted] in separate rooms. Burge laughed when each asked for an attorney saying "you know better than that". [redacted] was hit [redacted]

[redacted] When [redacted] refused to talk, he was struck in the [redacted]
[redacted] was told that he was "gonna talk before 12:00".

[redacted] testified about this brutality at their Motion to Suppress on March 6, 1980, [redacted] testified about being hit by Burge at his trial and Burge testified about interrogating [redacted] at the same trial. They were not permitted to testify at the Wilson civil rights trials.

C. 1982-1984

8. On [redacted] was taken to an Area II interrogation room, handcuffed, and questioned by Area II detectives concerning his knowledge and participation in a murder. When he failed to give information, Burge entered the room, told [redacted] he was going to talk, and asked if [redacted] had heard of him. When [redacted] said no, Burge said before he left the station he would "wish he had never set eyes on him." After this threat, he left.

Burge re-entered the interrogation room after [redacted] persisted in refusing to talk to the interrogating detectives. He then had [redacted]
that [redacted]

[redacted] and again asked [redacted] if he was going to talk. When [redacted] again refused, Burge pulled down [redacted]

[REDACTED]
[REDACTED] While shocking [REDACTED] Burge re-

b6 -2,-4
b7C -2,-4

peatedly demanded that he talk, told him he had also done this to [REDACTED] and had forced them to crawl all over the floor, and told [REDACTED] that nobody would believe [REDACTED] word against the word of a Lieutenant. Burge asked another Area II detective, who was present, Detective [REDACTED] if he had seen anything, and the detective looked at the ceiling and said no.

Burge also tied a [REDACTED]

b6 -2,-4
b7C -2,-4

[REDACTED] and later, after [REDACTED] continued to deny knowing anything, he re-entered the interrogation room, pointed a gun at [REDACTED] head, cocked it and told [REDACTED] he was going to "blow his black head off." Detective [REDACTED] was also involved in this interrogation. [REDACTED] testified to these events at a 1982 motion to suppress hearing at which Burge also testified, and later at a deposition in the Wilson civil rights case. [REDACTED] was not allowed to testify before the jury at the Wilson civil rights trials.

9. On [REDACTED]

[REDACTED]
[REDACTED] b6 -2
b7C -2

[REDACTED] were arrested and taken to Area I, pursuant to a canvas initiated by Area II detectives under the command of Lt. Burge. They were all beaten, had plastic bags and typewriter covers placed over their heads and were otherwise tortured while at Area I. [REDACTED]

detectives threatened to [REDACTED] After being
tortured at Area I, [REDACTED] was further brutalized at Area II.

b6 -2
b7C -2

[REDACTED]
[REDACTED] and heard several other arrestees being similarly treated. None of these individuals were charged with any crimes. All four of these individuals filed OPS complaints, but no action was taken. [REDACTED]

[REDACTED] all testified at the Wilson civil rights trials.

10. On [REDACTED]

were tentatively identified by an eyewitness as the persons who [REDACTED]

[REDACTED] They were taken to the

Detective Division at Police headquarters at 11th and State.

[REDACTED] was repeatedly beaten, abused, "bagged" and nearly suffocated by Burge and Area II detectives [REDACTED]

[REDACTED] who also placed a gun in his mouth and repeatedly threatened him with it. [REDACTED] also overheard other "suspects," including [REDACTED] being treated in a similar way when they determined that the identification was erroneous.

[REDACTED]
[REDACTED]
his torture. Later he was threatened by [REDACTED] in order to keep him quiet. He finally came forward in July of 1989 at the second Wilson civil rights trial and testified at length at a deposition. However, he was not permitted to testify before the jury at the second Wilson trial.

11. On [REDACTED] was arrested for

b6 -2
b7C -2

[redacted] and was tortured at

b6 -2,-4,-7
b7C -2,-4,-7

Area II and Area I by Burge, [redacted] and several other Area II detectives. They placed a bag placed over his head and nearly suffocated him, [redacted]

[redacted]
which plugged into the wall. Burge prefaced the torture by saying "fun time". At Area I Burge [redacted]

[redacted] and later said that they were going to [redacted]

[redacted]
Photographs, medical evidence and testimony from the head of Cermack Hospital and the Chief Deputy Medical Examiner, corroborate the nature of [redacted] injuries, including serious burns and electroshock to the ears. An internationally recognized expert on torture, [redacted] examined [redacted] as well as the photographic and medical evidence, and all the relevant testimony, and concluded that [redacted] was a classic victim of torture. The Illinois Supreme Court reversed

b6 -2,-6
b7C -2,-6

[redacted] on the basis of this torture evidence [see People v. Wilson, 506 N.E. 2d 571 (1987)], and an all white jury in the second Wilson civil rights trial, despite not being permitted to hear about [redacted] opinion, the Illinois Supreme Court's decision, or the other cases of torture by Burge and his men, nonetheless found that [redacted] constitutional rights had been violated and

that the police department had a policy and practice of abusing and torturing persons suspected of injuring or killing police officers.

12. On [redacted] was also arrested [redacted] b6 -2,-4,-7
for [redacted] b7C -2,-4,-7
He was physically abused while being interrogated by Area II detectives, including Defendants [redacted] in another Area II interrogation room, had a cocked gun placed in his mouth, and was shown the black box and threatened with "120 volts." He testified to this at his motion to suppress, but this testimony was barred admission at the Wilson civil rights trials.

13. [redacted] friends of the [redacted] b6 -2
[redacted] were also abused at Area II on [redacted] b7C -2
Burge and other Detectives. [redacted] was verbally abused by Burge, and held for nearly [redacted]
[redacted] while [redacted] was beaten and had a bag placed over his head while interrogated at Area II. Neither [redacted] nor [redacted] were permitted to testify at the Wilson civil rights trials.

14. [redacted] was picked up on the street by Detectives [redacted] b6 -2,-4
and taken to in a small room at Area II on [redacted] b7C -2,-4
Burge beat [redacted]
[redacted] and took out a box which contained an electrical device.
Burge shocked [redacted]
the device. [redacted] came to the station and Burge re-leased [redacted] threatening to blow his head off if he told

about the torture. [redacted] reported the incident to O.P.S. and b6 -2
the F.B.I., and several pictures were taken which documented b7C -2
his physical injuries. [redacted] testified at deposition in the
Wilson civil rights trials but was not permitted to testify
before the jury.

15. On [redacted] was arrested by four b6 -2,-4,-7
Area 2 detectives, including Sgt. [redacted] and Detective [redacted] b7C -2,-4,-7
taken to Area 2, beaten with a flashlight, and had a plastic
bag placed over his head. He received injuries to his arm and
leg. He filed an O.P.S. complaint concerning this brutality.
[See People v. Banks, 549 N.E. 2d 766, 771 (1989)]

16. On [redacted]
were arrested at two locations by numerous Area 2 detectives, b6 -2,-4,-7
including [redacted] and Sgt. [redacted] and b7C -2,-4,-7
[redacted] was taken to Area 2, placed in an interview room, and
threatened, kicked, beaten, and bagged by detectives including
[redacted] in order to obtain a statement from him. [redacted] was
threatened, beaten, bagged, and kicked at the scene of the
arrest by Area 2 detectives, including [redacted] and
then threatened with death in an Area 2 interview room in order
to obtain a statement. These victims, and the Area 2
detectives, including [redacted] testified about this at a
motion to suppress.

17. On [redacted] was arrested for
murder and taken to Area 2 by Lt. Burge. He was handcuffed to
the wall, and early the next morning, he was interviewed by

Sgt. [REDACTED] and Detectives [REDACTED] and [REDACTED] in an attempt to obtain a statement. Sgt. [REDACTED] put a [REDACTED]
[REDACTED] mouth and told him he would blow his head off. b6 -2,-4,-7
b7C -2,-4,-7
[REDACTED] beat him with a flashlight and [REDACTED] kicked him.
[REDACTED] then said "we have something for niggers" and put a plastic bag over his head, then [REDACTED] kicked him again. The bag was removed, the detectives left the room and returned ten minutes later. When [REDACTED] continued to deny involvement in the crime, [REDACTED] again put a bag over his head, and when he removed it, two minutes later, [REDACTED] confessed, in the presence of Detective [REDACTED]. He later filed an OPS complaint, and testimony was taken at a motion to suppress. Subsequently, the Illinois Appellate Court reversed his conviction, on the basis of these torture tactics, and [REDACTED] has been released from prison. See People v. Banks, 549 N.E.2d 766 (1989)

18. [REDACTED] was arrested on [REDACTED] by
Sgt. [REDACTED] and Detectives [REDACTED] all
from Area 2. [REDACTED]

b6 -2,-4,-7
b7C -2,-4,-7

[REDACTED]
They put a gun in his mouth and said he was going to tell them what they wanted. The Detectives then said they had a scientific way to get [REDACTED] to talk. [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] testified to this at his criminal trial, made a statement to O.P.S., drew detailed diagrams, and informed

Amnesty International. He also filed a lawsuit and the City settled with him. Burge approved some of the reports in the case. He was not permitted to testify at the Wilson civil rights trials.

19. [REDACTED] and [REDACTED] were taken to Area II in [REDACTED] where they were interrogated and tortured by Burge. Burge pulled out a black box and applied electroshock to [REDACTED]

b6 -2,-6
b7C -2,-6

[REDACTED] reported their torture to their attorney, [REDACTED] who reported it to the media; they also made O.P.S. complaints and testified to the torture in their criminal case. They were not allowed to testify at the Wilson civil rights trials.

b6 -2,-4,-7
b7C -2,-4,-7

20. [REDACTED] was arrested in the [REDACTED]

[REDACTED] by several Area II detectives, including Defendant

[REDACTED] and charged with [REDACTED]

[REDACTED] He was

handcuffed and taken to an isolated area near the [REDACTED]

homes where Area II detectives [REDACTED] called

him a "smart ass nigger" and repeatedly struck him in his

[REDACTED] These detectives subsequently took [REDACTED] to another location where they met again with other arresting detectives, including [REDACTED] and then took [REDACTED] to Area II, all the while talking about the police officer who had been [REDACTED] [REDACTED]

filed suit against the detectives, including [REDACTED] and in

b6 -2,-4,-7
b7C -2,-4,-7

[REDACTED] Adkins v. Boffo, et al., 86 C 3039. He was not permitted to testify at the Wilson civil rights trials.

21. [REDACTED] was arrested on [REDACTED]

by b6 -2,-4
b7C -2,-4

Area II detectives and brought to Area II. Detectives [REDACTED] and an as of yet unidentified Sergeant or Lieutenant punched and kicked him, and at various times placed both a typewriter bag and plastic bag over [REDACTED] head. This incident was reported to the O.P.S., to the FBI and testimony was given both at a motion to suppress and at the September and October 1989 City Council Hearings on Police Brutality. [REDACTED] did not testify at the Wilson civil rights trials because his identity was not known to [REDACTED]

lawyers at the time.

D. 1985-Present

22. On [REDACTED] was arrested for man-

b6 -2,-4
b7C -2,-4

slaughter and taken to Area II where Burge and Detectives [REDACTED] questioned him. Burge [REDACTED] slapped [REDACTED] tightened his handcuffs, hit him with a telephone book and kicked him. [REDACTED] testified to this at a motion to suppress. [REDACTED] did not testify at the Wilson civil rights trials because his identity was not known to [REDACTED]

lawyers at the time.

23. On [REDACTED] was arrested and

brought to Area II where he was questioned by Burge and

Detective [redacted] On three occasions, Burge placed a typewriter cover over [redacted] head, and held it tight at the bottom until he passed out. He also played "Russian Roulette" with [redacted]

b6 -2,-4
b7C -2,-4

[redacted] threatened to kill him, and made repeated racial slurs, including saying that he was "a

[redacted] that he would [redacted]

[redacted] and calling him a [redacted] As he did in [redacted] Burge also declared that it was "fun time" before he tortured [redacted] testified to this at a motion to suppress, while Burge claimed, at the same hearing, as he did in Wilson, that he only "listened by the door" and did not participate in the questioning or torture. [redacted] did not testify at the Wilson civil rights trials because his identity was not known to [redacted] lawyers at the time.

24. [redacted] the [redacted]
was arrested on [redacted] and taken to Area II where Area II detectives, including [redacted]
and [redacted] threatened him, strucked him, kicked him and twice "bagged" him with a plastic typewriter cover, which cut off his breathing, all in an attempt to obtain a confession. [redacted] testified to this at a motion to suppress. [redacted] did not testify at the Wilson civil rights trials because his identity was not known to [redacted] lawyers at the time.

25. [redacted] was arrested on [redacted] and taken to Area III, where Burge had been transferred as the Commander. He was taken to a wire enclosed "cage" where he was

struck with a telephone book, a blackjack, and a phone receiver, by Detectives [REDACTED] and a lieutenant whom he later identified as Burge. He testified to this at a motion to suppress, but did not testify at the Wilson civil rights trials because his identity was not known to [REDACTED] lawyers at the time.

b6 -2,-4,-7
b7C -2,-4,-7

II. OTHER KNOWN INCIDENTS OF TORTURE NOT CONNECTED TO BURGE

1. [REDACTED] was arrested on [REDACTED] by 14th District officers [REDACTED] who repeatedly tortured him by electroshock, using a small black box with a protruding metal rod. They shocked him on the [REDACTED] and, in a district interview room, and they [REDACTED] had medical and photographic evidence which corroborated the nature of his injuries, and [REDACTED] Nonetheless, the O.P.S. entered a finding of "not sustained" in his case.

b6 -2,-4
b7C -2,-4

2. On [REDACTED] was arrested for murder, and taken to Area IV detective headquarters at [REDACTED] There he was tortured for several days by Detectives [REDACTED] He was beaten with a long flashlight, and slapped with boxing gloves. A plastic bag was placed over his head and closed at the bottom. While he was unable to breathe, Detective [REDACTED] [REDACTED] The next day he was repeatedly shocked on the back of the neck with a device

b6 -2,-4
b7C -2,-4

housed in a black box. He testified to this at a motion to suppress.

3. On [redacted] was arrested and take^{b6 -2,-4}
^{b7C -2,-4} to the [redacted] Lockup where Officers [redacted] and [redacted] shackled him, beat him with clubs, and shocked him, leaving burn marks. He testified to these events at his own federal civil rights trial.

4. [redacted] was arrested in 1987 and taken to Area III where Detectives [redacted] tortured him by placing a plastic bag over his head.

5. [redacted] was arrested on [redacted] for [redacted]

District officers [redacted] He now has a federal civil rights suit pending against these officers.

III. POLICE COOBORATION OF BURGE'S TORTURE

As of the start of the first Wilson civil rights trial in February of 1989, [redacted] lawyers were unaware of any other acts of torture. In fact, Burge had, under oath, denied any knowledge of any other allegations of torture against him, despite the fact, as it was later learned, he had been repeatedly so accused. In early February the lawyers received an anonymous letter from a police source in which s/he asserted:

1. Several police defendants had "previously been accused of using torture machine (in) complaints given to O.P.S. and in motions filed in criminal trials."

b6 -2
b7C -2

b6 -5
b7C -5

3. "Several witnesses, including the [redacted] [i.e. [redacted]]

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

4. "Mayor Byrne and State's Attorney Daley ordered that the numerous complaints filed against the police as a result of [the investigation of] this crime not be investigated." [Anonymous Letter of 2/2/89]

The letter further demanded secrecy and said "if you want more information, place an ad in the Southtown Economist."

In response, [redacted] lawyers placed an ad in the Southtown Economist for the week of February 5, 1989, but received no response until March 7 or 8, 1989, when they received a second anonymous letter, appearing to be typed on the same typewriter by the same source, and enclosed in an official police department envelope postmarked March 6, 1989.

The source asserted in this letter that,

I believe that I have learned something that will blow the lid off this case. You should check for other cases [in] which Lt. Burge was accused (sic) of using this devices. (sic) 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...You must remember that they all know as did the State's Attorneys and many judges and attorneys in private practice."

[Anonymous Letter of March 6, 1989]

The letter went on to name Area II associates of Burge ---

[redacted] --- b6 -2,-4,-5,-7
b7C -2,-4,-5,-7

whom the source termed as [redacted] The source also instructed [redacted] lawyers to place another ad in the Economist, addressed to [redacted] and promising secrecy, if counsel desired more specific information.

Counsel placed an ad in the Economist which ran during the week of March 13, 1989. On March 16, 1989, the very day that defendant Burge finished his testimony at the first Wilson civil rights trial, [redacted] lawyers received a written phone message from [redacted] which said [redacted]

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

[redacted] Contemporaneously, counsel received another anonymous letter, also in an official police department envelope, postmarked March 15, 1989, from [redacted] in which the source stated that [redacted] and advised the lawyers

b6 -5
b7C -5

[Letter of March 15, 1989]

On the basis of this information, [redacted] tracked down [redacted] and his lawyer, and learned that [redacted] had testified at a 1982 Motion to Suppress that he was electroshocked by Burge at Area II only nine days before the plaintiff.

b6 -2
b7C -2

The judge in Wilson would not allow this startling new information, which he termed a "live hand grenade," into evidence, and the trial ended with a hung jury as to Burge and

the City's liability. The judge set a retrial for June, 1989.

and [redacted] lawyers, using leads found in [redacted] 1982

b6 -2

b7C -2

testimony, began to uncover more of the victims listed in this fact sheet.

On or about June 19, 1989, just as the retrial was about to begin, [redacted] lawyers received a fourth letter from [redacted] b6 -2,-4,-5
b7C -2,-4,-5
enclosed in a police department envelope postmarked June 16, 1989, in which this source discussed additional Area II personnel who were involved in torture with Burge, naming [redacted]

[redacted] - one of Burge's [redacted]. The source further claimed that Burge "used to brag about everyone he beat," and that,

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.

[Letter of 6/16/89]

Almost all these facts as to who the victims were, and who participated with Burge in his torture and brutality have been subsequently verified in the court records of the victims' cases, and by depositions of the victims and of Burge. Furthermore, several former police officers, O.P.S. investigators, defense lawyers and assistant states attorneys have verified that Burge has bragged about his exploits to them, and/or that his reputation for torture was widely known within law enforcement circles. Nonetheless, because the Wilson judge

did not permit Burge's other acts of torture to be admitted in evidence, the all white jury at the second trial exonerated Burge, while also finding that [redacted] rights were violated and that the police department had a policy and practice of torture and brutality.

b6 -2
b7C -2

- 1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription 6/10/91

[REDACTED]

[REDACTED]

b3 -1
b6 -1,-5
b7C -1,-5

[REDACTED] telephone number [REDACTED] was contacted at his office and advised of the identity of Special Agent (SA) [REDACTED]
[REDACTED] who then served [REDACTED] with a Federal Grand Jury subpoena, dated [REDACTED] directing the [REDACTED]

[REDACTED]

[REDACTED] stated that he understood what the subpoena was requesting and that [REDACTED]
the UNITED STATES ATTORNEY'S OFFICE, Northern District of Illinois, to the attention of Assistant United States Attorney [REDACTED]

b3 -1
b6 -3,-5
b7C -3,-5

A copy of the return of service subpoena has been placed in a 1-A evidence envelope (FD-340) for the file.

*6/7/91
302 u:*

[REDACTED]

[REDACTED]

b3 -1
b6 -5
b7C -5

Investigation on 6/7/91 at Chicago, Illinois File # 44A-CG-78234 - 11
by SA [REDACTED] JLS:rcb Date dictated 6/7/91

b6 -1
b7C -1

44A CG-78234-11

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 11 1991	
FBI - CHICAGO	
DNC	

19-cv-4048(FBI)-350

FBI

TRANSMIT VIA:

- Teletype
 Facsimile
 AIRTEL

PRECEDENCE:

- Immediate
 Priority
 Routine

CLASSIFICATION:

- TOP SECRET
 SECRET
 CONFIDENTIAL
 UNCLAS E F T O
 UNCLAS

Date 6/17/91

1 TO : DIRECTOR FBI
 2 (ATTN: CRIMINAL INVESTIGATIVE DIVISION,
 3 CIVIL RIGHTS UNIT)
 4 FROM : SAC, CHICAGO (44A-CG-78234) (SQ.12)
 5 SUBJECT : COMMANDER JOHN BURGE,
 6 CHICAGO POLICE DEPARTMENT,
 7 CHICAGO, ILLINOIS:
 8 [REDACTED] - VICTIM
 9 CIVIL RIGHTS
 10 OO: CHICAGO

b6 -2
b7C -2

Re Bureau airtel to Chicago dated 4/29/91.

11 Enclosed for the Bureau are three (3) copies of a
 12 letterhead memorandum (LHM) regarding captioned investigation.
 13 One (1) copy was furnished to the United States Attorney's
 14 Office, Chicago, Illinois.

44A-CG-78234-12

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 27 1991	
FBI - CHICAGO	
	DNC

2-Bureau (Enc. 3)
 20 ②-Chicago AF
 21 JLS/ar Jy
 (4)

1*

Approved: _____ Transmitted _____ Per _____
 (Number) (Time)

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to
File No.

Chicago, Illinois

June 17, 1991

COMMANDER JOHN BURGE
CHICAGO POLICE DEPARTMENT
CHICAGO, ILLINOIS
[redacted] - VICTIM
CIVIL RIGHTS

b6 -2
b7C -2

*concerned
inquiries*
On May 21, 1991 the requested additional investigation regarding captioned case was discussed with Assistant United States Attorney (AUSA) [redacted]. It was agreed that any and all records of complaints filed against JOHN BURGE with the Office of Professional Standard should be reviewed along with the allegations set forth by [redacted]

b6 -3,-5
b7C -3,-5

On [redacted] a United States District Court, Northern District of Illinois grand jury subpoena was served on [redacted]

b3 -1

On June 17, 1991 an attempt to interview [redacted] was negative and that he will not return to the Chicago Division until July 1, 1991. Investigation continuing at Chicago.

b6 -5
b7C -5

2-Bureau
2-Chicago
(1-AUSA)
JLS/ar
(4)

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)-355

~~SENSITIVE~~

BURGE, JON

DDN:

TRUE:

FO: CG

NAME TYPE:

CASE NO: CG-0079486

MAIN REF: M

EVENT DATE:

NO: 001

REC-NO: 001

CLASS: 044A

INDEXED: 021491

MODIFIED:

SPECIAL:

VIOLATION: CR

SERIALS:

RACE: U SEX: M ID-NO:

DOB: POB:

STREET NO: NAME:

CITY: ST: COUNTRY: ZIP:

LOC:

MISCELLANEOUS: UNSUBS; COMMANDER JON BURGE

CHICAGO POLICE DEPARTMENT

TORTURE OF UNNAMED VICTIMS

CLASSIFICATION LEVEL: SN CLASSIFIED BY:

DECLASSIFY ON:

<GO> - NEXT INDEX

F1 - REQUERY F3 - SUMMARY F6 - ADD INDEX

F7 - ADD ALIAS

F8 - DELETE F10 - INDEX

F9 - MODIFY SHIFT-F10 - FOIMS

~~SENSITIVE~~

BURGE, JON

DDN:

TRUE:

FO: CG CASE NO: 044-20000001

NAME TYPE: MAIN REF: R EVENT DATE:
OO: OO CASE NO:

VIOLATION: CR

SERIALS: 951

NO: 001
REC-NO: 001

INDEXED: 031191
MODIFIED:
SPECIAL:

RACE: U SEX: U ID-NO:

DOB: POB:

STREET NO: NAME:

CITY: ST: COUNTRY: ZIP:

LOC:

MISCELLANEOUS: COMMANDER CHICAGO POLICE DEPARTMENT

CLASSIFICATION LEVEL: SN CLASSIFIED BY: DECLASSIFY ON:

<GO> - NEXT INDEX

F7 - ADD ALIAS

F1 - REQUERY

F8 - DELETE

F10 - INDEX

F3 - SUMMARY F6 - ADD INDEX

F9 - MODIFY SHIFT-F10 - FOIMS

BURGE, JON

7/74

92-350-Sub14-861

Area 2, Robbery
Cg. P.D.
Star #14322

Dest

7/78

BURGE, JON

5/74

92-350-Sub14-878
p.2

Area 2, Robbery
Chicago Police Department
Star #14322

BURGE, JON, G.

3/73 44-2010*

Dest
4/78

U.S. Department of Justice



Federal Bureau of Investigation

In Reply, Please Refer to
File No. 44A-CG-78234

219 South Dearborn
Chicago, Illinois 60604
June 27, 1991

[Redacted]
Chief Administrator
Office of Professional Standards
Chicago Police Department
1024 South Wabash Avenue
Chicago, Illinois 60605

b6 -4
b7C -4

RE: Commander Jon Burge

Dear [Redacted]

The purpose of this letter is to formally advise you that the Chicago Office of the Federal Bureau of Investigation (FBI) is conducting a Civil Rights investigation concerning Commander Jon Burge of the Chicago Police Department.

Your cooperation in this matter will be appreciated.

6/27/91
FBI LETTER
TO CPD-OPS

Sincerely yours,

Delbert N. Dilbeck
Special Agent in Charge

BY: [Redacted]
Supervisory Special Agent

b6 -1,-4
b7C -1,-4

1 - Addressee
1 - Lieutenant [Redacted]
Chicago Office of Legal Affairs
Chicago Police Department
1024 South Wabash Avenue
Chicago, Illinois 60605
① - Chicago (44A-CG-78234)

JLS:rcb
(3)

44A-CG-78234-13

SEARCHED	INDEXED
SERIALIZED	FILED
JUN 28 1991	
SA	CHICAGO
[Redacted]	[Signature]

b6 -1
b7C -1

44A-CG-78234-14

SEARCHED	INDEXED
SERIALIZED	FILED
JUL 26 1991	
FBI - CHICAGO	
SA	JG

b6 -1
b7C -1

1 -

FEDERAL BUREAU OF INVESTIGATION

Date of transcription

7/16/91

[redacted] telephone number [redacted]
 [redacted] advised that he was one of the attorneys who [redacted]

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

[redacted] He advised that midway through the trial in early February 1989, they started to receive anonymous letters on CHICAGO POLICE DEPARTMENT (CPD) stationery advising them that a pattern of coerced confessions through torture by the CPD does exist. The letters went on to explain that a more recent example of this type of torture could be learned from an interview of [redacted]

[redacted] advised that during the [redacted] they compiled a fact sheet of over 40 cases of alleged coerced confessions through torture by the CPD. He stated that 30 of these cases can be connected directly to Commander JON BURGE, who at the time was a Lieutenant at CPD Area II. Finally, [redacted] advised that he and fellow attorney, [redacted] will need 2-3 days in order to organize all of the requested information regarding locations of the alleged victims.

b6 -5
b7C -5*7/15/91**INT.*b6 -5
b7C -5Investigation on 7/15/91 at Chicago, Illinois File # 44A-CG-78234by SA [redacted] JLS/blt Date dictated 7/15/91b6 -1
b7C -1

Date 7/26/91

Birth Credit Criminal Death INS Marriage* Motor Vehicle Other _____
 Driver's License

To		Buded
Return to	SA [redacted]	File number 44A CG 78234
Name and aliases of subject, applicant, or employee, and spouse		

b6 -1
b7C -1

(1) PEOPLE v. BANKS, 549 N.E.2d 766, 771 (1989)

Addresses
Residence ILLINOIS APPELLATE COURT
Business RON
Former (2) Adkins v. BOFFO et al 86 CV-3039 NORGLE
open 5-1-86 / closed 5-18-88

*Date and place of marriage _____
(if applicable)

Race	Sex <input type="checkbox"/> Male <input type="checkbox"/> Female	Age	Height	Weight	Hair	Eyes
Birth date	Birthplace					
Arrest Number	Fingerprint classification			Criminal specialty		
Specific information desired				Social Security Number		

Results of check

LIST ANY USDC CASES WHERE
DEFENDANTS ARE Chicago Police Department
AND / OR

JOHN BURGE AKA JOHN BURGE
44A-CG-78234-14X1
over

SEARCHED INDEXED
SERIALIZED FILED

NOV 16 1991

Cr. CAGO

19