

**SUMMARY OF EVIDENCE OF *MONELL* POLICY AND PRACTICE OF TORTURE
AND COVER-UP, AND OF DEFENDANTS MARTIN,'S SHINES', NEEDHAM'S AND
HILLARD'S INVOLVEMENT [REDACTED]**

1. Mayor Richard M. Daley was the States' Attorney of Cook County from 1981 through 1988, and he has served as Mayor of the City of Chicago from 1989 to the present.
2. On or about February 25, 1982, Police Superintendent Richard Brzeczek informed States Attorney Richard M. Daley by letter of the allegations made by Dr. John Raba, that Andrew Wilson had been beaten and electric shocked by Chicago Police detectives at Area 2 on February 14, 1982. 2/25/82 Brzeczek Letter to Daley; Brzeczek Affidavit.
3. Brzeczek further informed Daley that he would not initiate a criminal investigation into the allegations that Wilson was tortured unless Daley authorized such an investigation. Id.
4. Daley never authorized a criminal investigation, and the Chicago Police Department therefore did not initiate a criminal investigation into Wilson's allegations, and on May 19, 1983, Daley honored Burge and four other Area 2 detectives for their work in *the Wilson case*" Brzeczek Dep., *Wilson v. City of Chicago*, pp 123-24; Brzeczek Affidavit; *Chicago Tribune*, 5/20/83, "Daley Hails 11 in Crime War."
5. The Chicago Police Department never investigated numerous allegations of police torture and abuse which arose from the manhunt to find and arrest Andrew Wilson and which were lodged with its IAD and OPS in February of 1982. *Wilson v. City of Chicago*, 6 F3d 1230 (7th Cir. 1993).
6. On November 12, 1982, Andrew Wilson testified at his motion to suppress hearing that he was tortured by Jon Burge, John Yucaitis, and other Area 2 detectives by electric shock, bagging, beating and burning on a radiator. *People v. Wilson*.

7. In their Memorandum In Opposition To Motion To Bar Testimony Concerning Other Alleged Victims of Police Misconduct, filed on January 22, 1992 before the Chicago Police Board in the *Matter of Charges Filed against Respondents Jon Burge, John Yucaitis and Patrick O'Hara*, Cases # 1856-58, specially appointed City of Chicago lawyers, on behalf of the City of Chicago and Chicago Police Superintendent Leroy Martin, judicially admitted that:

At the hearing, Andrew Wilson will testify that on February 14, 1982, he was arrested at an apartment by several officers, including respondents Burge and Yucaitis. As Wilson was being taken to the car to be transported to Area II, he heard Burge telling the transporting officers not to “mess with” Wilson and that they would deal with him when they arrived at the station. Wilson was then taken to Area II by Yucaitis and three other officers. Transcript of Testimony of Andrew Wilson, July 7, 10, 11, 1989, at 2914-31

When they arrived at Area II, Wilson was taken to a room where the four transporting officers, including Yucaitis, and other officers started beating him. They hit him, kicked him, knocked him down and slammed him into a window so hard that it broke. In addition, one of the officers grabbed a plastic garbage bag and put it over Wilson's head, holding it around his neck so that he could not breathe. The officers took the bag off when Wilson bit a hole in it. The officers stopped beating Wilson when Burge entered the room and stated that if it had been him, he would not have left any marks on Wilson. Tr. at 2932-36

Wilson was taken to a second room and handcuffed to the wall. Yucaitis then took Wilson to a telephone and told him to call his brother. When Wilson replied that he did not want to talk but wanted a lawyer, he was taken back to the second room again handcuffed to the wall. Tr. At 2937-44. Burge entered the room and told Wilson he was going to make a statement because Burge's reputation was at stake. Burge left the room and Yucaitis came in with a brown paper bag. Yucaitis opened the bag and took out a black box about 12-14 inches long, 8-9 inches wide and 6 ½-7 inches high. The box had a crank and two wires with clamps. Yucaitis squatted down in front of Wilson with the box between his own legs, and put one clamp in Wilson's nose and one on Wilson's ears, and cranked the box. The shock caused Wilson's teeth to grind and was so painful that he kicked Yucaitis. Yucaitis punched him in the mouth and cranked the box again. Yucaitis left the room and then returned, put the black box in the bag, and left again. Tr. at 2947-55.

Respondent O'Hara then came in and took Wilson to see the Assistant State's Attorney, Lawrence Hyman. According to Wilson's testimony, with O'Hara present, Wilson asked Hyman, “You want me to make a statement after they've been torturing me?” O'Hara took Wilson back to the second room. Tr. at 2956-59.

Burge later returned to the second room with the brown paper bag and said, “Fun time.” Burge put a pair of handcuffs on Wilson's other arm and another pair on Wilson's

ankles. He then placed the bag in the garbage can and left. He returned, took out the black box, put the clamps on Wilson's ears and cranked the box. The shock caused Wilson's to grind his teeth and knocked Wilson out of his chair. Wilson kept rubbing the clips from the electrical device off his ears. Tr at 2961-63. Wilson was then handcuffed across the radiator, kneeling with his arms outstretched. Burge and another officer put the clamps on Wilson's little fingers and cranked the box repeatedly this time for longer periods. As he was being shocked, Wilson's chest, leg and face were forced against the radiator and he was burned. Tr. at 2963-66

When Burge stopped cranking and took the clamps off Wilson's little fingers, he took another shocking device out of the bag. It plugged into an electrical outlet and had a cord sticking out of it. Burge placed the device very near Wilson's skin so that he could feel it tingling. Burge then jabbed the second device into Wilson's back and Wilson got a full jolt, slamming Wilson into the grill on the window. Wilson began spitting out blood. Burge and the other officer put the devices back in the bag and left. Tr. at 296-68.

A while later, Wilson was taken to Area I headquarters for a lineup. At Area I, Burge stuck his gun in Wilson's mouth and cocked it back and forth. When Wilson arrived back at Area II after the lineup, Burge told him that if he did not make a statement, he would shock him again. Later, Burge told Wilson he was going to "fry his black ass." Tr. at 2969-75.

Memorandum In Opposition, pp.4-6.

7. In February of 1992, Andrew Wilson testified before the Police Board on behalf of the City in the *Matter of Charges Filed against Respondents Jon Burge, John Yucaitis and Patrick O'Hara*, Cases # 1856-58, and described his torture in a manner consistent with how the City described it in its January 22, 1992 Memorandum In Opposition To Motion To Bar Testimony Concerning Other Alleged Victims of Police Misconduct, at pp. 4-6; Police Board Testimony of Andrew Wilson.

8. In *Wilson v. City of Chicago*, 86-C-2360, the City of Chicago, who was a Defendant in that case, admitted in its Amended Answer, dated July 13, 1995, that Andrew Wilson was tortured by Jon Burge on February 14, 1982.

9. Melvin Jones testified on August 5, 1982 at his motion to suppress hearing that he was arrested and transported to Area 2 at 92nd and Cottage Grove on February 5, 1982, and

placed in an interview room. *People v. Melvin Jones*, 8/5/82, pp. 61-62.

10. Melvin Jones testified that while being held in an interview room and interrogated, Lieutenant Jon Burge pulled up a chair and sat in front of Jones who was cuffed to the wall, that Burge had a little wooden box with a long cord, that Burge pulled down Jones' pants to his ankles and electrically shocked Jones on his foot, then on his thigh and then on his penis. Jones testified that he kept hollering and telling Burge that he wasn't supposed to do this to him, that Burge said to him that he had no proof, that Burge asked detective Flood, who was present for the shocking, if he saw anything and Flood looked at the ceiling and said no. Jones further stated that Burge said, "[n]o court and no State are going to take your word against a Lieutenant's word," and Burge later hit him in the head with a stapler. *People v. Jones*, 8/5/82, pp. 65-71, 74.

11. Melvin Jones further testified that on February 6, 1982, while he was still being detained in an Area 2 interview room, Defendant McWeeny entered the room with another detective and questioned Jones, after which Lieutenant Burge entered the room and asked McWeeny if Jones had started talking yet. Jones further stated that when McWeeny said Jones hadn't said anything yet, Burge pulled out a gun and cocked it, put it up to Jones' head and said he was going to "blow Jones' black head off." *Id.* pp. 76-79.

12. Melvin Jones testified on February 19, 1992 on behalf of the City at the Chicago Police Board Hearing, that McWeeny told Burge to get out of the room and McWeeny stated to him later that evening that he [McWeeny] "had got the Lieutenant off me for right now. He said, if you are going to talk, you know, it would be easier for me." *Id.* at 79; Chicago Police Board, 2/19/92, p. 856.

13. Cassandra Watson, Melvin Jones' attorney in 1982, testified at the Chicago Police

Board Hearings on 2/19/92 that Jones told her within the first 10 days of February, 1982 that he had been beaten and threatened at Area 2, that while he was in an interview room at Area 2 a gun had been placed to his head, and that Lieutenant Burge had electrically shocked him with an electrical shock box. Chicago Police Board Proceedings, 2/19/92, pp. 960-62.

14. Jones testified on behalf of the City in the Police Board proceedings against Burge, and again identified Burge as the person who tortured him. *Id.*, p. 826).

15. In their Memorandum In Opposition, filed on January 22, 1992 before the Chicago Police Board, specially appointed City of Chicago lawyers, on behalf of Chicago Police Superintendent Leroy Martin and the City of Chicago, judicially admitted that:

Melvin Jones will testify that on February 5, 1982, just nine days prior to Andrew Wilson's arrest, he was taken to an Area II interrogation room where he was handcuffed and questioned by Area II detectives concerning his knowledge and participation in a murder. When he failed to give information implicating himself in the murder, respondent Burge entered the room and told Jones that he was going to talk. Burge then asked Jones if he had ever heard of him, and when Jones replied that he had not, Burge told him that before he left the station Jones would "wish he had never set eyes on him."

Burge left the interrogation room but returned after Jones persisted in his refusal to talk to the interrogating detectives. Burge had Jones cuffed to a second ring and then produced and plugged into the wall socket a wooden box measuring approximately 10" x 6" x 6", with tweezers and a long nail type device. He again asked Jones if he was going to talk. When Jones again refused, Burge pulled down Jones' pants and shorts and, using the electrical device, shocked Jones three times, on the foot, thigh, and penis. While he was shocking Jones, Burge demanded that Jones talk. He told Jones that he had also shocked "Satan" (Anthony Holmes) and "Cochise," forcing them to crawl all over the floor. He also told Jones that nobody would believe his word against a lieutenant's. Burge asked another Area II detective present in the room if he had seen anything, and the detective looked at the ceiling and said no. Burge also tied a sock in Jones' mouth. Burge was interrupted in his interrogation of Jones, apparently by the news that a policeman had been shot and killed on a bus in his area.

Later, Burge also struck Jones with a stapler. When Jones continued to deny knowing anything about the murder, Burge again entered the interrogation room. He pointed a gun at Jones' head, cocked it and told Jones he was going to "blow his black head off."

City and Martin's Memorandum In Opposition, pp. 7-8.

16. On May 15, 1995, the City of Chicago admitted that Melvin Jones had been electrically shocked by Jon Burge on his genitals and thigh with a device in a wooden box and threatened with a gun, while he was handcuffed to a ring in the wall in an Area 2 interview room in an attempt to coerce a confession from him. Local Rule 12 N Statement of the City, ¶ 26.

17. In *Wilson v. City of Chicago*, 86-C-2360, the City of Chicago, who was a Defendant in that case, admitted in its Amended Answer, dated July 13, 1995, that Melvin Jones was tortured by Jon Burge in February of 1982.

18. In February of 1983, Leroy Martin was appointed Commander of Area 2, and he held this post for 10-11 months. Martin Dep., *Czajkowski v. City of Chicago*; Martin Notes, 6/24/96.

19. Lt Jon Burge, as commanding officer of the Area 2 Violent Crimes Unit, answered directly in the chain of command to Martin, whom he briefed on cases in person and in written summaries. *Id.*; Martin testimony, 8/27/04, Darrell Cannon Parole Revocation Hearing.

20. As Commander, Martin received the face or charging sheet of all citizens complaints made against officers under his command, and also reviewed police reports in cases under investigation. *Id.*

21. While Commander of Area 2, Martin learned of the allegations of torture made by Andrew Wilson against Burge and other Area 2 detectives. Martin notes, 6/1/95; 5/11/96.

22. While Martin was Commander of Area 2, there were numerous allegations of torture against Burge and his men, with four separate cases and five victims alleging electric shock, baggings and beatings in the time period of October 27, 1983 to November 18, 1983 alone. Plaintiff's Listing of Known Burge, Area 2 and 3 Torture Victims, 1972-1991.

23. Jon Burge, Sergeant John Byrne, and more than twenty other Area 2 detectives who are alleged to have committed repeated acts of torture at Area 2 while Martin was Commander, have all invoked the Fifth Amendment when asked if they discussed any of these allegations with Martin. See, Generally, Depositions of Burge, Byrne, et. al.

24. In a memo dated October 24, 1984, which was addressed to OPS supervisors, OPS Director David Fogel directed that they submit reports listing allegations of the use of electric shocking devices by Chicago police during the last 12 month period.

25. In an October 29, 1984 memo to Fogel, OPS Supervisor Ann Peterson set forth two cases of electric shock.

26. In her October 29, 1984 memo to Fogel, one of the cases which Peterson described was “CR# 136454 (Inv. Folan) Unknown date in January of 1984, location: Area 2 Headquarters.”

27. In her October 29, 1984 memo to Fogel, Peterson further described “CR# 136454 as follows:

“Description of device: There are two complainants, Leonard Kidd and Leroy Orange. Kidd described the device as a “small black box with a cord sticking out with a piece of metal extending from the cord” Kidd describes the device as a “black box the size of a battery re-charger. It has a plug and a silver piece that is flexible and comes to a point with a silver nipple on it.”

28. In her October 29, 1984 memo to Fogel, Peterson further described the Orange and Kidd complaint (“CR# 136454) as follows:

“Allegations: Kidd and Orange were arrested for four charges of murder. There (sic) has publicized in the papers. Most of the publicity has related to the murders, but some has had the black bx as the subject. Kidd and Orange have made a multitude of allegations against officers (the accused have not been determined as of yet). However, they both alleged that in order to extract confessions, a black electrical device was used on them.

29. In her October 24 memo to Fogel, Peterson listed the second case as “CR # 141003 (Inv. Montgomery), date of incident: 16 Sept. 1984, location of incident, 20th district station, description of device, nightstick they use on dogs or animals/gives off electrical shock.”

30. Peterson further wrote in her October 24 memo to Fogel that the complainant alleged that he was “prodded several times with an electrical device,” the allegations were against two of the arresting officers, the arresting officers were from Unit 701, and that “it should be noted that CR #141536 (being investigated by Inv. Ortiz) has one of the same officers as the accused.”

31. By memo dated October 27, 1984, OPS Supervisor Frederick Smith responded to OPS Director Fogel’s memorandum of October 24, 1984.

32. In his October 27, 1984 memo to Fogel, Supervisor Smith listed three additional “complaint register investigations with an allegation of electrical shocking devices.”

33. In his October 27, 1984 memo to Fogel, Supervisor Smith first listed CR #134723, Date of incident: 2 November 1983, location unknown, Allegation: The victim, Darrell Cannon, related he was arrested in his home for murder, and then transported to an unknown location where he was cattle prodded between the legs.”

34. Reports in Complaint Register File #134723 establish that the accused officers in this complaint included Area 2 Sergeant John Byrne and Area 2 detectives Charles Grunhard and Peter Dignan.

35. In his October 27, 1984 memo to Fogel, Supervisor Smith also listed CR # 141164, date of incident: 22 September 1984, location - - Montrose and Clark - - 20th District Station: Allegation: “The complainant alleged that during his arrest, he was beaten about the head and body, and then cattle prodded between the legs.”

36. In his October 27, 1984 memo to Fogel, Supervisor Smith also listed CR # 141638, Date: 17 October 1984, Location: Homan and Clark (Inside of a squad car), Allegation:

the victim . . . alleged that during questioning by three white plainclothes officers he was poked in the stomach with an object that resembled the butt of a gun, this device gave him an electric shock

37. In a memo to Fogel dated October 24, 1984, Supervisor William Zylstra responded to Fogel's memo of the same date as follows:

The above reporting officer does not recall reviewing any cases regarding electric shocking equipment, especially during the last twelve months. However, prior to the above mentioned time, the above reporting supervisor recalls a case where Lt. Jon Burge, Unit 622 (Area 2) was accused of shocking a murder suspect into a confession. The matter was handled by the Office of Professional Standards but the other data is unknown.

38. In his memo to Fogel dated October 24, 1984, Supervisor William Zylstra further stated: "The above reporting supervisor suggests that Mr. Fogel assign an individual to peruse the

Complaint register book for the amount of time desired, in order to obtain a more accurate account of the incidents in question."

39. By memo dated October 26, 1984, OPS Supervisor R. Mankovich responded to OPS Director Fogel's memorandum of October 24, 1984, reporting CR # 141775, date of incident: 22 October, 1984, location: 1640 N. Kimball, Allegation: "Victim stated that during the course of his arrest, a male/white uniformed officer shocked him several times about the body with a small black handheld electrical shocking device."

40. By memo dated October 25, 1984, OPS Supervisor Jose Ortiz responded to OPS Director Fogel's memorandum of October 24, 1984, reporting CR # 141536, date of incident: 12 October, 1984, location: 1117 W. Lawrence, Allegation:

That in the process of being searched by the arresting officers, he was struck with a long black flashlight on the side and with an unknown electrical device in the back. The victim was unable to describe this device because he could not see it. [He] stated that he received a shock when struck with this device and heard a humming sound. Victim's injury(ies) (sic) were photographed.

41. By memo dated October 28, 1984, OPS Supervisor John Buchanan responded to OPS Director Fogel's memorandum of October 24, 1984, reporting CR # 135552, location: 1st District Station, Date of incident: October 28, 1983, Allegation:

The complainant alleged that he was arrested by two officers in plainclothes and taken to the 001 District. The officers were writing up the charges for him and he was handcuffed and he looked down to see what the officer was writing. He was punched in the face by this officer about eight or nine times. Another officer came in and both officers struck him about the head, eyes, and face a total of about seventy to eighty times. One police officer put something like an electrical wire in his left ear causing the ear to be damaged.

42. In a memo of November 5, 1984 which was addressed to Superintendent Fred Rice, David Fogel wrote: "the following is a list of Complaint Register Investigations involving the use of electrical shocking devices during the past twelve month period."

43. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel listed CR #134723, Date: 2 November 1983, Location: Area 2 Auto Pound, Allegation: "Mr. Darrell Cannon was arrested in his home for murder, and then transported to an unknown location where he was cattle prodded in his mouth and testicles."

44. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 135552, location: 1st District Station, Date of incident: October 28, 1983, Allegation: "[The complainant] alleged that he was arrested, handcuffed, punched in the face several times and struck in the head, eyes, and face several more times. Further it is alleged that an electrical wire was placed in his left ear causing damage to his ear.

45. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 141003, Date: 16 September 1984, Location: 20th District Station, Allegation: “[The complainant] alleged that he was prodded several times with an electrical device that looked like a nightstick they use on dogs or animals and gives off electrical shock”.

Accused: P.O Robert T. Phillips, Star #12045, Unit 020; P.O. John J Murphy, Star 5315, Unit 020.

46. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 141164, Date: 22 September 1984, location: Montrose and Clark and 20th District Station: Allegation:

[Complainant] alleged that when several police approached him, they slapped him in the face without saying a word, and “cattle pronged” him with an object between his legs. While at the district station, he alleged that he was “pronged” repeatedly, his hands were stepped on, his head was banged against the wall and his hair was pulled.

Accused: PO James C. Leyden, star #12038, Unit 661, Michael P. Adkins, Unit 661.

47. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 141536, Date: 12 October, 1984, Location: 1117 W. Lawrence, Allegation:

[Complainant] alleged that, in during process of being searched, he was struck with a long black flashlight on the side and was also struck with an unknown electrical device in the back. He received a shock from the humming electrical device.

Accused: PO Lon J. Nigro, star #11177, Unit 701; PO Timothy W. Monahan, Star #15454, Unit 701; PO Russell Schaeffer, Star #10125, Unit 701.

48. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 141638, Date: 17 October 1984, Location: Homan and Chicago (Inside of a squad car) (11th District) Allegation: “[the complainant] alleged that he was poked in the stomach with an object resembling the butt of a gun which gave him an electric shock.”

49. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR # 141775, Date: 22 October, 1984, Location: 14th District Station Interview Room, Allegation: “[Victim] stated that, during the course of his arrest, a male/white uniformed officer shocked him several times about the body with a small black handheld electrical rod shocking device.”

50. In this memo of November 5, 1984, addressed to Superintendent Fred Rice, Fogel also listed CR# 139503, Date: 6 June 1984, Location: 20th district Interview Room, Allegation: [complainant] was allegedly struck with unknown objects; Accused: P.O Robert T. Phillips, Star #12045, Unit 020; P.O. John J Murphy, Star 5315, Unit 020.

51. At David Fogel’s deposition on July 26, 1989 in the case of *Andrew Wilson v. City of Chicago*, 86-C-2360, he testified that he maintained a file (hereinafter referred to as the Fogel electric shock file) in which he kept CR’s related to electric shock.

52. The documents described in paragraphs above were included in this file.

53. Additionally, documents which contained the additional allegations of electric shock were also contained in the Fogel file:

CR #	Date	Location	Alleged victim	Accused officers
CR# 143912	2/20/85	11 th Dist.	[Deleted]	[Deleted] [Deleted]
CR# 152158	4/8/86	19 th Dist	[Deleted]	[Deleted]
CR# 154619	2/1/87	9 th Dist	[Deleted]	

54. During Fogel’s July 26, 1989 deposition, a lawyer for Andrew Wilson, who was conducting the deposition, requested production of Fogel’s file.

55. Lawyers for the City of Chicago refused to produce this file.

56. At the Chicago City Council Police Torture Hearings, held on December 24, 1990, counsel for Andrew Wilson publicly informed the members of the committee conducting the Hearings about Mr. Fogel's electric shock file, and requested that the Committee conducting the Hearings obtain these documents. City Council Hearing, 12/24/90, p. 36.

57. Neither this file nor the documents contained therein were produced by the City, the Police Department, or the OPS to the City Council or the Committee hearing the torture allegations, nor did the City Council nor the Committee obtained the file or the documents contained therein.

58. On or about August 11, 1992, in the case entitled *Gregory Banks v. Burge, Byrne, City of Chicago*, et. al., 91-C-6470, Plaintiff Gregory Banks served upon the City of Chicago Plaintiff's First Request to Produce which requested in paragraph 11 production of "the CR files, summaries, and any other information concerning of (sic) all other torture and electric shock victims known to the defendant, including, but not limited to, those which former OPS director David Fogel collected and monitored while he was head of OPS."

59. On or about September 11, 1992, the City, through Assistant Corporation Counsel Margaret Carey, formally responded to this request as follows: "the City has not located any documents pertaining to "known" victims of torture as described in Request # 11.

60. Neither the Fogel electric shock file, nor any documents contained therein, were produced by the City, the Police Department, the OPS, or Ms. Carey at any time during the pendency of his case to Plaintiff Banks or his lawyers.

61. On or about March 15, 1993, in the case entitled *Marcus Wiggins v. Burge, Byrne, City of Chicago*, et. al., 93 C- 199, Plaintiff Wiggins served upon the City of Chicago Plaintiff's

First Request to Produce to All Defendants which requested in paragraph 11 production of “the CR files, summaries, and any other information concerning all other torture and electric shock victims known to the defendant, including, but not limited to, those which former OPS director David Fogel collected and monitored while he was head of OPS.”

62. On or about April 15, 1996, in a letter to the City seeking compliance with Request # 11, Plaintiff Wiggins, through counsel, stated “as to the materials identified by former OPS Director Fogel in his deposition, he left these materials in his official OPS files when he left employment in 1990; hence those materials are clearly defined, not accessible to Plaintiff, but rather remain in your files.”

63. On or about May 16, 1996, the City, through Assistant Corporation Counsel Carey, formally responded by letter to the request for compliance concerning the Fogel File as follows: “I am attempting to see if, in fact, your assertions are correct as to whether David Fogel left these materials at OPS. If you have any information concerning how you know he left the records at OPS, it might assist the City in locating any such files. Once I have received this information, I will let you know what the City can or cannot produce.”

64. On or about May 23, 1996, in another letter to the City seeking compliance with Request # 11, Plaintiff Wiggins, through counsel, stated: “Former OPS Director Fogel testified that he left these documents in his file at OPS when he left at a deposition taken in *Fallon* and incorporated in this and other Monell cases on September 24, 1992, at pages 637-8. (See Attachment).”

65. In May, 1996, Ms. Carey, by letter, requested that the Police Department search for the Fogel electric shock file.

66. On or about July 9, 1996, the City, through Assistant Corporation Counsel Carey, formally again responded by letter to the request for compliance concerning the Fogel electric shock file as follows:”The City has been unable to locate the files plaintiff claims were maintained by Fogel, however we are continuing to look. Consequently, to date and to the extent possible, the City has complied with this request.

67. Neither the Fogel electric shock file, nor any documents contained therein, were produced by the City, the Police Department, the OPS, or Ms. Carey at any time during the pendency of his case to Plaintiff Wiggins or his lawyers.

68. On or about August 11, 2004, the Fogel file and some or all of the documents contained therein was produced by the City to the lawyers for Plaintiffs Patterson, Orange, Hobley and Howard in a Box labeled Box 2.

69. Neither the Fogel electric shock file, nor any documents contained therein, were produced by the City, the Police Department, the OPS, or Ms. Carey at any time to Plaintiff Patterson, to Leroy Orange, Darrell Cannon, Stanley Howard, Madison Hobley, or any of their lawyers, the Cook County State’s Attorney or any Assistant Cook County State’s Attorney, to any criminal defendant, civil Plaintiff, or their lawyers prior to August 11, 2004.

70. In 1988, shortly after shortly after Leroy Martin became Superintendent, he transferred Burge from his post as Commander of the Bomb and Arson Unit back to the Detective Division as Commander of Area 3.

71. Also in 1988, Burge requested that Martin intervene with the City Council Finance Committee to obtain private council at the City’s expense to represent him in the Wilson civil trial, and Martin conveyed his request. Letters of 8/23/88 and 10/25/88.

72. The City Council approved Burge's request, William Kunkle, Richard Devine, and their law firm was selected by Burge, and the City paid them approximately \$1 million dollars to represent Burge for the next eight years. Letters of 8/23/88 and 10/25/88, Payment Records, Phelan, Pope and John.

73. After Martin transferred Burge to Area 3, key members of Burge's torture squad - - - including Sergeant Byrne, and Detectives Paladino, Maslanka and Mc Weeny - - - also transferred to Area 3 and allegations of torture began to proliferate there. Plaintiff's Listing of Known Burge, Area 2 and 3 Torture Victims, 1972-1991.

74. From 1981, when State's Attorney Daley assumed office, until the end of 1988, when he left office to run for Mayor, approximately 55 victims had alleged torture at Area 2, many allegedly tortured statements had been taken by his assistants, and many motions to suppress where Area 2 torture was alleged had been defended by his office, yet neither Daley nor the SAO initiated any investigations or brought any criminal charges against Burge or any of his men. Id.

75. On July 26, 1989, Mary Powers on behalf of Citizens Alert and several other community groups wrote to OPS Director David Fogel requesting that OPS "reopen an investigation into torture and other abuses by commander Jon Burge," and that he "support our recommendation that the Chicago Police Board conduct open public hearings into patterns of torture by some members of the Chicago Police Department dating back at least 16 years." Powers Letter of 7/26/89.

76. In the Powers letter of July 26, 1989, she specifically cited the allegations made by Melvin Jones that he was electric shocked and otherwise abused in February of 1982. Id.

77. Neither the OPS nor the CPD opened an investigation into Melvin Jones' allegations of torture in response to this letter or at any other time.

78. On August 17, 1989, Mary Powers, and other community activists appeared before the Police Board and, in Superintendent Martin's presence, detailed evidence of a pattern of torture at Area 2 which had come out in the *Wilson* civil trials, including a description of the torture device, and the finding by the Wilson Jury that there was a pattern and practice of abuse at Area 2, and demanded that a broad investigation be conducted, and that Burge be suspended pending the results of the investigation. Police Board Proceedings, 8/17/89.

79. On September 14, 1989, Mary Powers, and other community activists again appeared before the Police Board and, in Superintendent Martin's presence, again raised the torture evidence and the demand that Burge be fired. Superintendent Martin responded by stating: "Commander Burge is working, as far as I know, he'll be working Ms. Powers. I have no reason to suspend Commander Burge. You want him suspended. I have no reason to suspend him at this time." Police Board Proceedings, 9/14/89, pp. 90-91.

80. In September and October of 1989, the City Council held several days of Hearings into police brutality and torture, at which Mayor Daley gave a statement, and Superintendent Martin and OPS Director Fogel attended and testified. City Council Hearings, September 28-; October 6, 10, 11 1989.

81. Mayor Daley made the following statement to the Committee at the Hearings: "Superintendent Leroy Martin was . . . reappointed by me. He has complete responsibility over the Chicago Police Department. I have full confidence in his administration. He has done an outstanding job." City Council Hearing, 9/28/89, p. 4.

82. At the hearing, torture at Area 2 was presented through the testimony of Stanley Howard's mother, OPS Director Fogel was questioned about Burge, electric shock, and

baggings at Area 2, Martin was also asked about Howard's torture, and he promised to look into it. Hearing, 9/29/89, pp 172-215, 10/6/89, pp. 187-96, and 10/10/89, pp. 392-400.

83. On November 30, 1989, Mary Powers, and other community activists again appeared before the Police Board and, in Superintendent Martin's presence, again raised the torture evidence and the demand that Burge be fired. Superintendent Martin responded by stating: that he wished the activists would follow up on cases where police officers are shot "the way you are following up on the Burge case and see to it that justice is done to the person who took my officer's life." Police Board Proceedings, 11/30/89, pp. 19-25.

84. On December 24, 1990, the City Council held Christmas Eve hearings, chaired by Finance Committee Chairman Ed Burke, on the question of police torture at Area 2 during which several witnesses presented numerous allegations of police torture at Area 2. City Council. Hearing, 12/24/90 .

85. At the Chicago City Council Hearings held in December 24, 1990, counsel for Andrew Wilson tendered the Committee and its counsel, a 21 page document entitled "Fact Sheet: Evidence of Police Torture By Commander Jon Burge and His Men."

86. The "Fact Sheet: Evidence of Police Torture By Commander Jon Burge and His Men" which was tendered by counsel for Andrew Wilson to the Committee and its counsel at the Chicago City Council Hearings held on December 24, 1990, listed more than thirty victims of alleged torture at Area 2, including Aaron Patterson, Madison Hogley, Stanley Howard, and Leroy Orange.

87. At the Christmas Eve hearing, evidence that SA Daley refused to investigate when requested to do so by Superintendent Brzeczek. was presented, and Daley responded publicly, with his office stating that "Andrew Wilson refused to testify before the grand jury about the

allegations.” *Chicago Tribune*, 12/25/90, “Hearing Examines Brutality Charges;” *Chicago Sun Times*, 12/25/90, “Davis Urges New Review of Police Brutality Cases.”

88. The “Fact Sheet: Evidence of Police Torture By Commander Jon Burge and His Men” which listed more than thirty victims of alleged torture at Area 2, including Aaron Patterson, Madison Hobley, Stanley Howard, and Leroy Orange, was tendered by counsel for Andrew Wilson to Superintendent Leroy Martin on or about December 19, 1990.

89. In a letter dated January 9, 1991, OPS Director Gayle Shines wrote to counsel for Andrew Wilson that “Superintendent Martin has referred to me your letter of 19 December and the attached Fact Sheet.”

90. The City Council or its Finance committee never issued a report or took any other action after the December 24th torture hearings.

91. On January 28, 1991, Amnesty International issued a Report calling for “a full inquiry into allegations that Chicago police systematically tortured criminal suspects from 1972 to 1984,” and in response, the spokesman for Mayor Daley said she had “no comment whatsoever.” *Chicago Sun Times*, 1/28/91, “Police Torture Probe Sought Here.”

92. On or about November 2, 1990 OPS Director Gayle Shines approved as “compelling” and forwarded to Superintendent Martin the 25 page Report and findings made by OPS investigator Michael Goldston concerning allegations of torture and abuse at Area 2. This Report included the following findings:

As to the matter of alleged physical abuse, the preponderance of the evidence is that abuse did occur and that it was systematic. The time span involved covers more than ten years. The type of abuse described was not limited to the usual beating, but went into such esoteric areas as psychological techniques and planned torture. The evidence presented by some individuals convinced juries and appellate courts that personnel assigned to Area 2 engaged in methodical abuse.

The number of incidents in which an Area 2 command member is identified as an accused can lead to only one conclusion. Particular command members were aware of the systematic abuse and participated in it either by actively participating in same or failing to take any action to bring it to an end. This conclusion is also supported by the number of incidents in which Area 2 offices are named as the location of the abuse.

OPS Special Project Conclusion Reports and Findings, and Cover Letter, Shines to Martin, dated November 2, 1990 (Goldston Report).

93. In her forwarding memo of November 2, 1990, OPS Director Shines, while approving the conclusions of Goldston and Sanders, further informed Superintendent Martin that they both did “a masterful job of marshaling the facts in this intensive and extensive project and their conclusions are compelling.” 11/2/90 Cover Memo, Shines to Martin, with OPS Special Project Conclusion Reports and Findings enclosed.

94. On or about November 2, 1990, OPS Director Gayle Shines approved “as compelling” and forwarded to Superintendent Martin the 66 page report and conclusions of OPS investigator Francine Sanders which found that based on “the overwhelming body of evidence which supports the allegations” that administrative charges of excessive force should be sustained against Jon Burge and John Yucaitis including that they “repeatedly administered electrical stimulation to Mr [Andrew] Wilson’s body in order to create pain” and that Burge “held Mr. Wilson, while handcuffed, against a hot radiator causing burns to Mr. Wilson’s face, chest and thigh.” Chicago Police Office of Professional Standards (OPS) Special Investigative Report and Findings, October 26, 1990 (Sanders Report), pp.62-66.

95. Martin acknowledged the “serious nature” of Goldston’s conclusions Martin memo to Shines, 11/18/90.

96. At no time from receiving the Goldston Report in November of 1990 until he left

office in April of 1992, did Martin, OPS Director Shines, or any other City policymaking official take any steps to further investigate the allegations made by the some fifty victims listed in the Goldston report.

97. Instead, Martin, after waiting three months, wrote Shines seeking “further clarification” concerning the Goldston and Sanders Reports. Memo, Martin to Shines, 2/6/91.

98. Despite all of the torture evidence contained in the Goldston and Sanders Reports, in the Fact Sheet, and that was previously presented to Martin and the City Council, the City and Martin did not seek the prosecution of Burge and his confederates in the *Wilson* case, for a continuing conspiracy on the basis of the numerous other torture cases listed in the Goldston report, or to prosecute Burge for the numerous other cases which were documented in the evidence presented, including the Patterson and Madison Hobley cases.

99. In her April 30, 1991 memorandum to Martin, Shines supplied the “clarifications” sought by Martin, and informed him that the OPS findings “reflect the unprecedented comprehensiveness of this investigation.” Shines memo, 4/30/91.

100. With her April 30, 1991 memorandum to Superintendent Martin, OPS Director Shines included investigator Goldston’s clarification memo, in which Goldston set forth that his investigation established that Area 2 detectives and supervisors Jon Burge, John Byrne, Peter Dignan, Charles Grunhard, John Yucaitis, Thomas McKenna, and Patrick O’Hara were “players” whose names “repeatedly appeared as connected to allegations of abuse.” Goldston Memo of 4/30/91, attached to Shines Memo to Martin of the same date.

101. After waiting an additional seven months, in November of 1991, Superintendent Leroy Martin approved the findings set forth in the Chicago Police Office of Professional

Standards (OPS) Special Investigative Report and Findings, dated October 26, 1990 (Sanders Report), Burge and Yucaitis were administratively charged by the CPD for abusing Andrew Wilson in the manner found in the Report, and separation proceedings were initiated before the Chicago Police Board. Cr 123543 (reopened).

102. However, after secret communications with Corporation Counsel Kelly Welch, which the City still refuses to produce, Martin refused to accept or adopt the Goldston findings, open any additional criminal or administrative investigations into the numerous allegations of Area 2 torture, to commission additional investigation into the alleged systemic pattern and practice of torture, or to discipline or seek criminal charges against any of the named officers, but rather contacted the Police Foundation in order to have them evaluate the methodology used by Goldston in arriving at his findings. Martin Letter to Williams, 11/8/91; City Privilege Log.

103. During this time period, community groups, including Citizen's Alert, by letters and in face to face meetings, were demanding that Martin release the results of the OPS investigation into torture at Area 2. Powers Letter to Martin, 8/14/91.

104. Instead, Martin, through his lawyers at the Corporation Counsel's Office, fought production and public release of the Goldston Report and its findings. See, generally, proceedings in *Fallon v. Dillon*, 90 C 6722.

105. In November of 1991, after Defendant Martin and Corporation Counsel Kelly Welch had initiated proceedings before the Police Board to fire Burge, Yucaitis and O'Hara for torturing Andrew Wilson, Mayor Daley "defended his decision not to take action against the officers when he was state's attorney in 1982, explaining that . . . [Wilson] refused to cooperate with his office at that time." *Chicago Tribune*, 11/26/91 "3 Cops Face Hearing in Torture Case."

106. On or about February 7, 1992, the Goldston and Sanders were publicly released, over the City's strenuous objection, pursuant to the order of Judge Milton Shadur in the case of *Fallon v. Dillon*, #90-C-6722.

107. In an article which appeared in the February 8, 1992 *Chicago Tribune*, Superintendent Leroy Martin, who was one of the previous Area 2 Commanders, was quoted as saying that it was an "outright lie" that Area 2 commanders knew about or condoned torture. *Chicago Tribune*, "13 Years of Cop Torture Alleged," February 8, 1992.

108. In the same article, Mayor Richard M. Daley was quoted as saying of the Report, "these are only allegations . . . not substantiated cases," as defending Martin's suppression of the report, stating: "it's allegations, rumors, stories, things like that" and of denying that the torture at Area 2 was "systematic." *Chicago Tribune*, 2/8/92, "13 Years of Cop Torture Alleged;" *Los Angeles Times*, 2/8/92, "Chicago Police Used Torture Report Says,"

109. In their Memorandum In Opposition To Motion To Bar Testimony Concerning Other Alleged Victims of Police Misconduct, filed on January 22, 1992 before the Police Board in the *Matter of Charges Filed against Respondents Jon Burge, John Yucaitis and Patrick O'Hara*, Cases # 1856-58, specially appointed City of Chicago lawyers, on behalf of Chicago Police Superintendent Leroy Martin and the City of Chicago, made the following judicial admission concerning the testimony of "seven additional victims of torture tactics at Area II headquarters:"

The testimony regarding similar acts sets forth detailed accounts of tortuous treatment that are almost identical to the torture suffered by Andrew Wilson. The testimony reveals an astounding pattern or plan on the part of respondents [Burge, Yucaitis and O'Hara] to torture certain suspects, often with substantial criminal records, into confessing to crimes or to condone such activity.

Memorandum In Opposition To Motion To Bar Testimony Concerning Other Alleged Victims of Police Misconduct, p. 1.

110. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Superintendent Leroy Martin and the City of Chicago, identified the “seven additional victims of torture tactics at Area II headquarters” as Melvin Jones, Anthony Holmes, George Powell, Donald White, Shadeed Mumin, Leroy Orange, and Lawrence Poree. *Id.*, pp. 7-14.

111. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Martin and the City, made the following judicial admission - - - that the similar acts testimony of Melvin Jones, Anthony Holmes, George Powell, Donald White, Shadeed Mumin, Leroy Orange, and Lawrence Poree

[I]s highly probative of the modus operandi used or condoned in the torturing of suspects to elicit statements. Respondents [Burge, Yucaitis and O’Hara’s] methods of torture through electric shock, bagging, and holding a gun to a suspect’s head are more than sufficiently unique to establish a modus operandi for 404 b purposes. In addition, the testimony establishes a pattern of and plan to torture these suspects in these similar ways to elicit confessions to violent crimes.

Id. p. 17.

112. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Martin and the City, judicially admitted that the similar acts testimony of Melvin Jones, Anthony Holmes, George Powell, Donald White, Shadeed Mumin, Leroy Orange, and Lawrence Poree:

clearly establishes respondents’ [Burge, Yucaitis and O’Hara’s] motive and intent in torturing or condoning the torture of Wilson. Respondents generally engaged in these similar practices in order to coerce a confession to a serious crime.

Id. p. 22.

113. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Martin and the City, judicially admitted that the similar acts testimony of Melvin Jones, Anthony Holmes, George Powell, Donald White, Shadeed Mumin, Leroy Orange, and Lawrence Poree:

shows the physical existence of one or more electric shock devices at Area II, prior to and subsequent to Wilson's arrest, and Burge's possession of and familiarity with the use of the devices. It is also admissible to show knowledge of that technique and of the bagging technique, about which respondents deny knowing, and the technique of putting a gun to the head of a victim.

Id., p. 24.

114. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Martin and the City, made the following judicial admission:

There is no question that the similarities between [Andrew] Wilson's testimony and the similar victims' testimony is more than sufficient to meet the 404 b standard. Burge was the main perpetrator of the torture in almost all of the cases, and, when he was not the principal, he was still involved. In the case of all but one of the victims, the victim was picked up and taken to Area II where he was then interrogated regarding his knowledge or involvement in a serious offense. Although Donald White was taken instead to Area I, he was taken there and interrogated by Area II detectives. All of the victims were black and generally had significant criminal histories.

Also similar was the way in which several victims were threatened with consequences if they refused to make a statement. After an initial refusal, the punishment would begin and then would become stronger and more painful as the refusals to speak persisted. The most striking similarities, however, are found in the methods of torture used on the suspects. Wilson was electro shocked by Yucaitis using the black box and by Burge who used the black box and a curling-iron looking device, was "bagged" and beaten, and was threatened with a gun placed in his mouth. Jones, Holmes, Poree, Powell and Orange were similarly electro shocked by Burge. Holmes, Powell, White and Mumin were all "bagged" and beaten to the point where they lost or almost lost consciousness. Burge pointed a cocked gun at Jones's head, hit Poree in the head with a pistol, and placed a revolver containing one bullet at Mumin's head and snapped it three times slowly. White had a gun placed in his mouth. Additionally, each of the victims was slapped around and punched.

Burge's statements to the victims were also very similar. Burge told both Jones and Mumin that nobody would ever believe their word against his. As he did in relation to Wilson, he referred to the absence of marks on Mumin's body. He said "fun time" as

he approached Wilson and Poree with the black box, and laughed when he bagged Mumin. He told Wilson he would “fry his black ass” and Jones he would “blow his black head off.”

As the case law cited above aptly demonstrates, these actions or the condoning of these actions are overwhelming in their similarity.

Id., pp. 25-26.

115. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Chicago Police Superintendent Leroy Martin and the City of Chicago, made the following judicial admission:

Given the similarities between the serious offenses charged and the offenses to which the similar victims will testify, there is no question that the offenses are close enough in time to be relevant to this case. Tak[ing] the offenses in sequence, they reveal a pattern of almost identical acts of torture directed towards persons suspected of violent crimes. While the sequence spans twelve years, each offense is close enough to the next to connect it to the relevant pattern of behavior. Moreover, Melvin Jones’ and Donald White’s testimony will demonstrate that they were tortured just days before Andrew Wilson was tortured.

Id., p. 28.

116. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Leroy Martin and the City of Chicago, judicially admitted:

Indeed, as the testimony of the similar victims shows, respondents [Burge, Yucaitis and O’Hara] counted on the fact that their testimony would be believed over that of a convict when they persisted in their pattern of torture.

Id., p. 28.

117. In a document filed in the case of *Wilson v. City of Chicago, Jon Burge, Patrick O’Hara and John Yucaitis*, 86-C-2360, entitled “City of Chicago’s Memorandum in Response To Plaintiff Andrew Wilson’s Motion for Summary Judgment,” the City, through its lawyers, made the following judicial admission:

Plaintiff Andrew Wilson has testified that he was beaten, kicked, punched, burned by being harnessed to a radiator, and repeatedly electro shocked on his hands, face, ears, and

between his legs by defendant police officers. Plaintiff now seeks summary judgment that this outrageous conduct, unsanctioned and condemned by the City, and for which defendant officers were fired and/or disciplined, was within the defendants' scope of employment.

City Memorandum in Response To Plaintiff Wilson's Motion for Summary Judgment, p. 1.

118. In a document filed in the case of *Wilson v. City of Chicago*, 86-C-2360, entitled "City of Chicago's Memorandum in Response To Plaintiff Andrew Wilson's Motion for Summary Judgment," the City, through its lawyers, made the following judicial admission:

The instrumentalities by which defendants tortured plaintiff also illustrate that defendant officers were not in the scope of their employment. Plaintiff has failed to furnish any evidence to suggest that the instruments used by the officers to shock him - - the black box device and the modified curling iron - - were furnished by the City.

Id., p. 17.

119. In its Memorandum in Response To Plaintiff Andrew Wilson's Motion for Summary Judgment," the City, through its lawyers, made the judicial admission that

Burge "cruelly torture[d]" Andrew Wilson and "denie[d] him necessary medical assistance."

Id., p. 19.

120. In this Memorandum, the City, through its lawyers, made the following admission concerning its change of position from defending Burge for his alleged torture of Andrew Wilson to asserting that said torture was so outrageous as to be outside the scope of Burge's employment: "The change in the City's position was the result of inquiries undertaken by the City in good faith and in the public interest." Id. p. 12.

121. On July 30, 1992, almost two years after Superintendent Martin had first received the Goldston findings, the Police Foundation submitted its report to Superintendent of Police Matt Rodriguez. After noting that because "hangings, shockings, 'baggings' beatings, chokings, and beatings were alleged to occur, many in the Area 2 Headquarters itself, a thorough and rigorous investigation seemed required," and that it passed no judgment as to whether the torture alleged had in fact taken place, the Report criticized Goldston's methodology. Police Foundation

Report, "An Analysis of the Methods Employed in the Preparation of the Goldston Report," 7/30/92.

122. The Police Foundation recommended, *inter alia*, that the Chicago Police Department investigate or re-investigate cases of serious misconduct listed in the Goldston Report, create a database concerning these investigations, rigorously and uniformly investigate them, and create a monitoring system to identify patterns of serious police misconduct. *Id.*

123. Almost three years after first receiving the Goldston Report, OPS Director Shines reopened the Cannon, Howard, Adkins, Craft, Holmes, White and Michael Johnson cases and assigned OPS investigators to them. Numerous other serious Area 2 torture cases, including those of Plaintiff, Leroy Orange, Melvin Jones, Anthony Homes, George Powell, and Madison Hobley, were not opened or reopened. Shines' Dep. in *Santiago v. Marquez*; CRs of named Victims.

124. Leroy Orange testified on May 22, 1985, at his trial that on January 12, 1984 he was taken to Area 2 and interrogated. During this interrogation, he was handcuffed behind his back to a circle in the wall, a plastic bag was put over his head, and when the bag was put over his head a second time he was punched in the stomach. *People v. Orange*, 5/22/85, pp. 1112-14.

125. Leroy Orange further testified that he was shocked on the arm with an electrical device, and that an officer stuck his hands between his legs and squeezed his testicles. *Id.* at 1114; Affidavits of Leroy Orange.

126. Leroy Orange averred in ¶¶ 11-13 of an affidavit that he was interviewed in the summer of 1990 by a male OPS investigator at Pontiac Correctional Center, and after reviewing a stack of photographs, he identified Jon Burge as one of the detectives involved in his torture.

127. OPS Investigator Michael Goldston listed Orange as a victim tortured by Burge in his 1990 OPS report. Goldston Report.

128. Detectives McWeeny and Madigan testified at Orange's trial that they were partners and they arrested Orange on January 12, 1984, and they transported him to Area 2 Headquarters where they locked him in an interview room, and the next day they conducted line-ups with him. *People v. Orange*, pp. 615-17, 624,1232-34.

129. Leroy Orange stated at his bond hearing on January 14, 1984 that he had pin marks on his butt, that was the only visible bruise he had to show, and that "other things happened." *People v. Orange, Kidd*, 1/14/84, p. 3.

130. Orange's co-defendant, Leonard Kidd, also stated at the January 14th bond hearing that he was hurting between his legs where the police jumped on him, and his lawyer also noted on the record that Kidd was limping and that he came in injured. *Id.*

131. On February 9, 1984, Orange's attorney told a reporter for the *Chicago Sun Times* that officers administered electrical shocks to Orange's buttocks and anus with a "black box." "Cop 'black box' torture charged," *Chicago Sun Times*, 2/9/84.

132. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Chicago Superintendent Martin and the City of Chicago, judicially admitted that:

In January of 1984, Leroy Orange was taken to Area II where he was interrogated and tortured while Burge was in the room. Orange was shocked and jolted repeatedly with a black box plugged into the wall. Orange's pants were pulled down while electroshock was applied to his body, including his buttocks. He was then asked if he was ready to make a statement, and he replied that he was. Orange reported this torture to his attorney, Earl Washington, who reported it to the media..

Memorandum In Opposition, January 22, 1992, p. 13.

133. In February of 1984, the OPS registered a complaint, number 136454, alleging that

Jon Burge and others who allegedly tortured Leroy Orange on January 12 and 13, 1984.

134. The OPS entered a not sustained finding on these allegations without ever taking a statement from Orange, Burge or any other Area 2 detective or supervisor.

135. The Chicago Police Department has since destroyed the OPS file in complaint number 136454.

136. On or about September 24, 1979, the OPS registered complaint number 108817 alleging that George Powell was beaten and suffocated with a bag while being questioned at Area 2, the OPS entered a not sustained finding on these allegations without ever taking a statement from Powell, Burge, or any other Area 2 detective or supervisor, and the Chicago Police Department has since destroyed the OPS file in complaint number 108817.

137. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Superintendent Leroy Martin and the City of Chicago, judicially admitted that:

On September 20, 1979, George Powell was arrested at his girlfriend's house and taken to Area II where he was handcuffed to a wall. Burge brought in a long object with a cord, similar to a cattle prod, and said he was go to do to Powell what he had done to "Satan." Burge shocked Powell on his stomach and chest, such that Powell almost passed out. Also, while slapping and questioning Powell, Burge put a bag over Powell's head and Powell had to bite a hole in it in order to breathe. Powell's mother filed a complaint with the office of Professional standards, who ultimately made a finding of not sustained.

Memorandum In Opposition, filed on January 22, 1992 in the *Matter of Charges Filed against Respondents Jon Burge, John Yucaitis and Patrick o'Hara*, Cases # 1856-58, p. 9.

138. In a statement taken on June 14, 2004, George Powell stated that he was electric shocked, suffocated with a plastic bag, and beaten by Jon Burge and other Area 2 detectives during his interrogation in September of 1999.

139. On May 11, 1989, Andrew Wilson's lawyers in Wilson's civil rights trial filed "Plaintiff's Proffer of Other Acts of Beating, Torture and Electroshock By Defendant Burge and Other Detectives." and served it on the City through counsel.

140. "Plaintiff's Proffer" listed 19 alleged victims of Burge, Sergeant Byrne, and their fellow Area 2 detectives.

141. "Plaintiff's Proffer" listed Anthony "Satan" Holmes, stating:

Anthony Holmes, nicknamed "Satan," was taken to Area II headquarters at approximately 4:00 a.m. Jon Burge presided over his interrogation, during which, in an effort to obtain a confession, plastic bags were put over his head, causing him to pass out three separate times. Burge also applied the end of an electric shock device, housed in a black box, to Holmes' handcuffs, giving Holmes an intense shock, and causing him to fall out of his chair and roll on the floor.

142. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Leroy Martin and the City of Chicago, judicially admitted:

On May 30, 1973, at approximately 4:00 a.m., Anthony Holmes, whose street name is "Satan," was taken to Area II headquarters where he was held, interrogated and tortured for approximately six hours. Respondent Burge presided over his interrogation, during which, in an effort to obtain a confession, plastic bags were placed over Holmes' head, causing him to pass out three times. Burge also applied the end of an electric shock device, housed in a black box, to Holmes' handcuffs, giving Holmes an intense shock, which caused him to fall out of his chair and roll on the floor. The shock was extremely painful and caused Holmes to press his jaws together and grit his teeth.

Memorandum In Opposition filed on January 22, 1992, p. 9.

143. On April 19, 2004 Anthony Holmes gave a Court reported statement in which he described the allegations made in Plaintiff's Proffer in even greater detail.

144. Neither the OPS nor the CPD opened an investigation into Anthony Holmes' allegations in response Plaintiff Wilson's Proffer, in response to the City's statements in their January 22, 1992 Memorandum, or at any other time.

145. Plaintiff's Proffer also listed Lawrence Poree, stating:

Lawrence Poree was interrogated on two occasions in 1973 by Burge and Hoke. The first time they showed him a wooden box, with no top and a generator inside with two wires. Burge said "this is what we got for niggers like you." Later (that year) Burge and Hoke put Poree, while handcuffed, on a table and hit him. They then pulled his pants down and applied electric shock to his arm, testicles and under his armpits.

146. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Leroy Martin and the City of Chicago, judicially admitted that:

Lawrence Poree will testify that on two occasions in 1973, he was interrogated by respondent Burge and another detective. The first time they showed him a wooden box with no top, a generator inside, and two wires. Burge then said, "this is what we've got for niggers like you." Later in 1973, Burge and [detective] Hoke put Poree, while handcuffed, on a table and hit him. They then pulled his pants down and applied electroshock to his arm and armpits, and to his testicles.

On August 7, 1979, Poree was arrested and brought to Area II where he was interrogated by Burge. Poree was handcuffed in the interrogation room, and the black box was on the table. Burge came in and said, "fun time again." Poree was handcuffed to the wall and hit in the head with a pistol. Apparently referring to Anthony Holmes, Burge said "You can ask your fat friend about the box." Burge shocked Poree eight or nine times on the arms, chest, forehead, and back, causing him to clench his teeth and bite his tongue and his mouth to bleed.

(Memorandum In Opposition, January 22, 1992, pp. 13-14.

147. On April 19, 2004 Lawrence Poree gave a Court reported statement in which he described the allegations which were made in Plaintiff's Proffer in more detail.

148. Neither the OPS nor the CPD opened an investigation into Lawrence Poree's allegations either in response Plaintiff Wilson's Proffer, in response to the January 22, 1992, City Memorandum, or at any other time.

149. In *U.S. ex. rel. Maxwell v. Gilmore*, 1999 WL 130331 (N.D.Ill.) at *14; Judge Shadur stated the following in his decision:

It is now common knowledge that in the early to mid-1980s Chicago Police Commander Jon Burge and many officers working under him regularly engaged in the physical abuse

and torture of prisoners to extract confessions. Both internal police accounts and numerous lawsuits and appeals brought by suspects alleging such abuse substantiate that those beatings and other means of torture occurred as an established practice, not just on an isolated basis.

150. At the May 13, 2003 oral argument in the Seventh Circuit Court of Appeals in *US ex. rel. Leonard Hinton v. Mc Ardory*, Seventh Circuit Judge Diane Wood made the following statement from the bench: “terrible things were happening in Area 2, things that should make us ashamed of our police force and justice system.”

151. In *Wilson v. City of Chicago*, 120 F.3d 681, 683-85 (7th Cir. 1997), the Seventh Circuit Court of Appeals held that Defendant Burge acted within the scope of his employment with the City “when he tortured Wilson,” stating:

Burge was not pursuing a frolic of his own. He was enforcing the criminal law of Illinois overzealously by extracting confessions from criminal suspects by improper means. He was, as it were, too loyal an employee. He was acting squarely within the scope of his employment.

152. OPS investigator Veronica [Tillman] Messenger was assigned to investigate the re-opened Darrel Cannon OPS complaint (CR #134723) in May, 1993. CR # 134723, Tillman-Messenger Testimony, *People v. Cannon*.

153. Pursuant to that investigation, she located the site Cannon had previously described as the location where he had been allegedly tortured. *Id.*

154. This location was under a viaduct at 12409 S. Torrence, and Tillman-Messenger had photographs taken of the site. *Id.*

155. OPS Investigator [Tillman] Messenger finished her investigation in January of 1994, and entered sustained findings against all three accused officers, finding that:

- a) Sergeant Byrne struck Cannon with a cattle prod on his testicles and penis and in his mouth;

- b) Sergeant Byrne repeatedly called Cannon a “nigger;”
- c) Sergeant Byrne held a 9 mm handgun to Cannon’s head;
- e) Sergeant Byrne attempted to lift Cannon by the handcuffs;
- d) Detective Dignan played Russian roulette with a shotgun with Cannon;
- e) Detective Dignan attempted to lift Cannon by his handcuffs;
- f) Detective Dignan put a shotgun to Cannon’s head;
- g) Detective Grunhard lifted Cannon up while Byrne held onto the cuffs.

156. These findings in CR #134723 were approved by Ms. Messenger’s supervisor at OPS, Carmen Christia. Id.

157. The reopened Cannon OPS file and the sustained findings were forwarded to OPS Director Gayle Shines for her review sometime in 1994. Id.

158. Director Gayle Shines took no action on these findings from receipt of the findings and file in 1994 until her leaving the post of Director in 1998, and kept the Cannon file and findings in her office from receipt until her leaving. Shines Dep., Benefico Dep., *Santiago v. Marquez*.

159. No Chicago police or City of Chicago official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham produced the reopened Cannon file and the sustained findings contained therein to Mr. Cannon, Plaintiff Patterson, Leroy Orange, Stanley Howard or their lawyers in their criminal cases from 1994 to 1999.

156. No Chicago police or City of Chicago official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham, produced the reopened Cannon file and sustained findings to any other criminal defendant or his lawyers in his criminal case, or to any Cook County Assistant State’s Attorney from 1994 to 1999.

157. This file and the findings, was further withheld, despite repeated discovery demands, from several civil litigants alleging torture and abuse. See, *e.g.*, *Santiago v. Marquez*,

Wiggins v. City of Chicago.

158. After Darrell Cannon presented evidence that he was tortured to the Illinois Prisoner Review Board on August 27, 2004 and September 3, 2004 at his parole revocation hearing, Board Chairman Jorge Montes was quoted in the September 10, 2004 *Chicago Tribune* as saying that he was “‘inclined to believe’ Cannon’s claim that detectives working under former police Cmdr John Burge extracted a confession from Cannon through torture” and that “‘personally, I was inclined to believe there was torture.” *Chicago Tribune*, September 10, 2004.

159. After Darrell Cannon presented evidence that he was tortured to the Illinois Prisoner Review Board on August 27, 2004 and September 3, 2004, Board Chairman Jorge Montes was quoted in the September 10, 2004 *Chicago Sun Times* as saying “was there credibility to the [torture] testimony? My inclination is to say ‘yes,’ Mr. Cannon may have been tortured. We found it fairly credible.” *Chicago Sun Times*, September 10, 2004.

160. Philip Adkins testified at his deposition in his civil case that after he was arrested on June 7, 1984, officers Ron Boffo, James Lotito and Peter Dignan transported him from his home on the south side of Chicago to the vicinity of 53rd and Federal Streets, where they struck him repeatedly about the genitals and abdomen with flashlights until he defecated on himself. Adkins deposition, pp. 5, 13-17.

161. Sergeant John Byrne admitted that he was present at Adkins’ house when he was arrested. Byrne Dep. p. 157; 1985 OPS Statement of John Byrne in CR 142201.

162. According to medical records, Adkins was transported to Area 2 and he eventually was taken to Roseland Community Hospital where a urinalysis showed a trace of blood in his

urine. He was then immediately transferred to Cook County Hospital. Adkin's Medical Records from Roseland Community Hospital, CR 142201.

163. According to medical records, at Cook County Hospital Adkins was diagnosed with multiple blunt trauma, and he complained of having been beaten by the police with flashlights. Adkin's Medical Records from Cook County Hospital, CR 142201.

164. On May 4, 1993, OPS re-opened an investigation into Adkins' charges of abuse and investigator Leutie Lawrence was assigned to investigate the charges. *People v. Cannon*, 9/24/99, p. 18.

165. During the course of the investigation, Adkins again identified Boffo, Lotito and Dignan as the officers who had abused him on June 7, 1984. CR 142201, Attachment #141, A-F, photographs of Lotito, Dignan and Boffo.

166. Adkins' girlfriend Earlene Smalley, his brother Willie Adkins, and his sister Sarah Adkins Woodson all gave statements to OPS that Adkins was not sick or injured prior to being arrested on the morning of June 7, 1984. CR 142201.

167. Willie Cowyin, gave a statement to OPS in which he described seeing Adkins naked and changing into different clothes after Adkins had been arrested. He further described that Adkins looked as though he had been beaten up. *Id.*

168. On December 16, 1993 Office of Professional Standards investigator Leutie Lawrence made the following sustained findings against Boffo, Lotito and Dignan:

- a) Detective Boffo violated Rule 8, maltreatment of any person, by repeatedly striking Adkins about the body and groin area with a flashlight on June 7, 1984;
- b) Detective Lotito violated Rule 8, by striking Adkins repeatedly about the body with a flashlight on June 7, 1984;
- c) Detective Lotito violated Rule 14, making a false report, by stating to OPS that he had seen injuries to Adkins prior to arresting Adkins while Adkins was in his

house the morning of June 7, 1984 and for falsely stating that Det. Boffo had not been in the car while he was transporting Adkins;

- d) Sergeant Dignan violated Rule 14, making a false report, for writing in a police report dated June 15, 1984, and for stating to OPS on November 18, 1993, that he had observed injuries to Adkins' chest and torso while inside Adkins' house prior to his arrest on June 7, 1984.

Id.

169 The Adkins OPS file and the sustained findings were forwarded to OPS Director Shines for her review sometime in 1994. Lawrence Testimony, *People v. Cannon*.

170. Director Gayle Shines took no action on these findings from receipt of the findings and file in 1994 until her leaving the post of Director in 1998, and kept the Adkins file and findings in her office from receipt until her leaving. Shines and Benefico depositions, *Santiago v. Marquez*.

171. No Chicago police or City official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham, produced the Adkins file and the sustained findings contained therein to Plaintiff Patterson, Darrell Cannon, Stanley Howard, Leroy Orange Madison Hobley, or any of their lawyers in their criminal cases from 1994 to 1999.

172. No Chicago police or City official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham, produced the Adkins file and sustained findings to any Cook County Assistant State's Attorney or any other criminal defendant or his lawyers in his criminal case from 1994 to 1999.

173. Gregory Banks testified that he was arrested on October 28, 1983, at approximately 8:30 p.m. and transported to Area 2 at 111th and Ellis Streets. *People v Cannon*, 4/19/2000, p. 8-9.

174. Banks further testified that at approximately 2:30 a.m., while he was being

questioned by Detectives John Byrne, Peter Dignan and Charles Grunhard, Byrne pulled out a chrome .45 and stuck it in Banks' mouth, that after Banks refused to make a statement, Byrne then struck Banks with a flashlight, knocking him out of a chair to the ground, and that while he was laying on the ground with his hands cuffed behind his back, Grunhard kicked him in the ankles and left side of his body. *Id.* at 12-13.

175. Banks' further testified that, when he continued to refuse to make a statement, Dignan took out a plastic bag, and stated to Banks "[w]e have something special for niggers," then he placed the bag over Banks' head and held it there for 1 to 2 minutes during which time Banks could not breathe. *Id.* at 14-15.

176. Banks further testified that all three officers left, and returned a few minutes later, then, after Banks still refused to make a statement, Dignan again placed the bag over Banks' head and suffocated him, for approximately a minute, after which Banks, fearing for his life, agreed to confess. *Id.* at 17-19.

177. Banks previously gave substantially the same testimony at his July 1, 1985 motion to suppress hearing in *People v. Banks*.

178. Dr. John Raba, M.D., Medical Director of Cermak Health Services sent a letter to the OPS dated November 14, 1983, requesting that OPS investigate allegations of excessive force made by Gregory Banks. The letter further stated that Dr. Ross Romine, examining Banks upon admission to Cook County Jail, noted multiple bruises on Banks' body, evidence of trauma on his chest, abdomen and legs and scabbed abrasions on his wrist compatible with compression injuries caused by handcuffs. The letter also noted that Banks alleged that a plastic bag was placed over his head by the Chicago police department while he was being

beaten, in an effort to extract a confession. CR #188617, Letter from Raba to OPS dated 11/14/83, Attachment #29.

179. Dr. Ross Romine, the doctor who examined Gregory Banks at Cook County Jail on November 3, 1983, testified that Banks had told him he had been beaten and suffocated with a plastic bag by Chicago police officers; that he found injuries on Banks' body consistent with what Banks had alleged, including scabs on both wrists, multiple scrapes and scratches over his chest and abdomen, and a bruised, swollen muscle on his left side; that he further observed that Banks' chest area was swollen, discolored and tender and that there were scratches or scrapes around one of his ankles in addition to bruises on both legs in the upper posterior section of the upper thigh, and that the injuries on Banks' chest appeared to have been caused by some blunt object. *People v. Banks*, 6/13/85 p. 168, 172-74, 176.

180. OPS investigator Robert Cosey was assigned to re- investigate the allegations of Banks when the OPS complaint register was re-opened in 1991. He closed the file in June, 1993, and entered findings of sustained against four accused officers, finding that:

- a) Sergeant Byrne violated Rule 6 by failing to report to OPS the use of excessive force against Gregory Banks;
- b) Sergeant Byrne violated Rule 14 by making a false report by testifying falsely before Judge Robert Sklodowski on June 3, 1985, that Gregory Banks was not physically abused in police custody;
- c) Sergeant Byrne violated Rule 8 by kicking Gregory Banks on October 29, 1983;
- d) Sergeant Byrne violated Rule 6 by failing to report to a supervisor the use of excessive force against Banks;
- e) Sergeant Byrne violated Rule 14 by making a false report by giving a false statement to OPS that Banks was not injured while in police custody;
- f) Detective Peter Dignan violated Rule 6 by failed to report to a supervisor the use of excessive force against Banks;
- g) Detective Peter Dignan violated Rule 14 by giving false information while providing a statement to OPS about Banks;
- h) Detective Robert Dwyer violated Rule 6 by failing to report to a supervisor the use of excessive force against Banks;

- i) Detective Robert Dwyer violated Rule 14 by giving false information while providing a statement to OPS about Banks.
- j) Detective Charles Grunhard violated Rule 8 by kicking Gregory Banks about the body while he lay handcuffed on the floor during his interrogation;
- k) Detective Charles Grunhard violated Rule 6 by failing to report to a supervisor the use of excessive force against Banks;
- l) Detective Charles Grunhard violated Rule 14 by giving false information while providing a statement to OPS about Banks

CR 188617, Cosey Summary Report.

181. Shaded Mumin testified on 5/13/87 at his motion to suppress hearing, that after he was arrested on October 30, 1985, he was taken to Area 2 and placed in an interview room. *People v. Mumin*, 5/13/87, p.45.

182. Mumin further testified that a man whom he identified as Lieutenant Burge took him into his office, handcuffed him to a chair, took out his .44 magnum handgun, put one bullet in it, spun the gun chamber around, put it to his [Mumin's] head and pulled the trigger. *Id.* at 49, 54.

183. Mumin further testified that Burge then grabbed a typewriter cover off a typewriter, said "you will fucking talk or I'll kill you" and then put the typewriter cover over his head and held it until he passed out. *Id.* at 56.

184. Mumin further testified that the plastic typewriter cover was grey, made of vinyl, and Burge attempted to suffocate him with it three times. (*Id.* at 57, 59, 75).

185. Mumin testified that Burge said to him "If you tell somebody, nobody will believe you because there's no marks on you and you better sign the fucking statement when this attorney gets here tomorrow . . . If you don't, you'll get it even worse than what I did to you now." *Id.* at 60.

186. Investigator Veronica Tillman of the OPS did a preliminary investigation of the

Mumin's allegations in 1993 and obtained gun registration documents which established that Jon Burge had a 44 caliber 8 inch revolver registered to him on November 8, 1982 with the registration number #0023212 and serial number N413937. *People v. Cannon*, Tr.11/2/99; Mumin OPS File.

187. Area 2 Sergeant Sammy Lacey Jr. stated to Investigator Tillman on August 12, 1993 that Burge carried some type of revolver in October of 1985. OPS Statement of Sergeant Sammy Lacey Jr. in Mumin OPS File .

188. In February of 1992, the City and Superintendent Martin, through their specially appointed counsel, called Shadeed Mumin to the stand in the Police Board Hearings and offered his testimony that on October 30, 1985, he was tortured by means of suffocation with a plastic bag by Jon Burge and John Paladino, to obtain a statement. Police Board Hearings, 2/92.

189. In its Memorandum In Opposition, the City and Martin, through their specially appointed counsel, judicially admitted that:

On October 30, 1985, Shadeed Mumin was pulled over and arrested by two police officers in an unmarked car. He was taken to Area II and placed in a small room upstairs. Burge entered the room and told Mumin to get up and turn around to the wall. Mumin was then handcuffed behind him to a ring or hook on the wall such that he could not sit down. Burge told Mumin that he wanted to know about the robbery, and Mumin replied that he had no knowledge of what burge was talking about. Burge told Mumin he would talk before Mumin left there and tightened Mumin's handcuffs. The handcuffs were painful and cut off Mumin's circulation. Burge then left the room.

Burge returned after a half hour and loosened the handcuffs, asking Mumin if he was ready to talk. When Mumin said he didn't know what Burge was talking about, Burge became angry and pushed him into a wall. He then removed Mumin's handcuffs, took him to an office down the hall and handcuffed him. Burge said, "You're not going to talk, huh?" and Mumin replied that he didn't know what Burge was talking about. Burge said, "do you know that we can bury you in the penitentiary?" Mumin replied that he still didn't know what Burge was talking about.

Burge then told Mumin that they really wanted his son, and Mumin repeated that he didn't know what Burge was talking about. Burge became angry and pulled out a fully loaded .44 Magnum. He took out all the bullets except for one, spun it, placed it at

Mumin's head and snapped it three times slowly. Burge told Mumin he was "damned lucky" that Burge didn't kill him and that he wanted to know about the "fucking robbery."

Burge became angry, jumped up from the desk and snatched a brownish plastic typewriter cover. He said, "you'll fucking talk or I'll kill you," and placed the cover over his head. Burge held the cover over his head and pushed it down in his face so he couldn't breathe. Mumin, who was handcuffed behind his back, passed out. Burge put it on his head three times. The third time, Mumin hollered and Burge took the cover off and laughed. Burge asked him if he was ready to sign a statement and mumin told him he would do anything. Burge told Mumin that if he told anybody, nobody would believe him because there were no marks on him and that he had better sign the statement.

Memorandum In Opposition, January 22, 1992 in the *Matter of Charges Filed against Respondents Jon Burge, John Yucaitis and Patrick O'Hara*, Cases # 1856-58, pp. 11-12.

190. The OPS never completed its investigation into Mumin's charges. Mumin CR File, Tillman-Messenger testimony in *People v. Cannon*.

191. Stanley Howard testified at his January 1987 Motion to Suppress hearing that he was arrested on November 1, 1984 by 5 or 6 police officers and transported to Area 2 Police Headquarters at approximately 7 to 7:30 p.m. and interrogated. *People v. Howard*, 1/28/87, p. 23.

192. Howard further testified at his motion to suppress hearing that during this interrogation, in interview room 4 at Area 2, while both of his hands were handcuffed to a ring in the wall, Area 2 detective Lotitio put a plastic typewriter cover over his head and Sergeant Byrne and Detective Boffo punched hi, causing him to asphyxiate and black out. *Id.* at 45-46, 73.

193. Howard further testified at his motion to suppress hearing that when he denied any knowledge of Oliver Revell's murder, the officers snapped and went insane punching and kicking him in his mid-section and back, they also slapped in him the face and Sergeant Byrne

repeatedly kicked him in his left shin while he was handcuffed to a ring in interrogation room 4. Id. at 26-27, 30, 37, 39-41, 46, 49-50, 72-73.

194. Additionally, Howard averred in an affidavit that on November 1, and 2, 1984, he was interrogated by Detective McWeeny. Howard Affidavit, ¶¶ 19, 21.

195. Howard further averred in his affidavit that after this interrogation, at 2 a.m. on November 3, 1984, Byrne, Boffo and Lotito further interrogated him, and that when he denied he was responsible for Oliver Ridgell's murder, these officers began to slap him, punch him in the mid-section and kicked him repeatedly in the shin; Lotitio then placed a plastic [shopping] bag over his head, held it tight around his neck, causing him to black out, and he was awakened by one of the officers slapping him in the face. Id. at ¶¶ 27-28.

196. Howard further averred in an affidavit that when one of the officers asked if he was ready to confess, he said no, and Lotito slapped him again, Byrne said "Lay off the head," he was then punched in the stomach and chest by all three officers; they then started to put the typewriter cover over his head again, and he agreed to confess. Id. at ¶¶ 31-32.

197. Howard further averred in his affidavit that within days of being beaten and tortured, he told his mother and stepfather what happened and reported the beatings and torture to the Police Department and to the F.B.I. Id. at ¶ 39.

198. Theodore Hawkins gave a signed statement to OPS Investigator Leutie Lawrence, in C.R.# 142017, in which he stated that he was in police custody at 111th police station on November 3, 1984 at approximately 2:30 a.m., he observed Howard being questioned through a two way mirror, that Howard appeared to be flinching, dodging and injured about the face, and that one of the three interrogators was holding a plastic bag. CR 142017, OPS Statement of

Theodore Hawkins, 9/27/93.

199. In a sworn affidavit dated May 10, 1994, Byron Hopkins averred that in early November, 1984, he was taken into a room where Stanley Howard was being held and that Howard looked like he had been punched and slapped in the face and he could see his chest was red and discolored as if he had been punched or kicked in the chest. Affidavit of Byron Hopkins ¶ 4.

200. In a sworn affidavit dated May 24, 1994 Dr. John M. Raba, who was the medical director of Cermak Health Services in November of 1984, averred that Howard's Cermak medical records reflected that Howard complained of rib pain and abrasions to the lower portion of his leg, and that the physician observed multiple abrasions on Howard's left shin. Affidavit of Dr John Raba, ¶¶ 2-4.

201. In a sworn affidavit, Dr. Antonio Martinez, a psychologist with expertise in treating victims of torture, averred that he performed a psychological evaluation of Howard to determine whether he had been a victim of torture, that he interviewed him on four different occasions, and that he concluded to a reasonable degree of scientific and professional certainty that Howard was tortured by police, and this torture included blows to the mid-section, use of a plastic bag to achieve suffocation, and repeated kicks to his shin. Affidavit of Dr. Antonio Martinez, ¶¶ 4, 5, 10, 19.

202. In his March 1, 2000 deposition in *People v. Patterson*, Sergeant Byrne testified that he participated in the interrogation of Stanley Howard. Byrne Dep. p. 155.

204. On January 11, 1994, OPS investigator Leutie Lawence entered the following sustained findings:

- a. Sergeant Byrne violated Rule 8, maltreatment of any person, by repeatedly striking Howard about the body with his fists inside interview room # 4 at Area on November 3, 1984;
- b) Sergeant Byrne violated Rule 8, maltreatment of any person, by repeatedly kicking Howard's left leg inside interview room 4 at Area 2 on November 3, 1984;
- c) Detective Boffo violated Rule 8, maltreatment of any person, by repeatedly kicking Howard about the body inside interview room # 4 at Area on November 3, 1984;
- d) Detective Boffo violated Rule 8, maltreatment of any person, by repeatedly striking Howard about the body inside interview room # 4 at Area on November 3, 1984;
- e) Detective Lotito, violated Rule 8, maltreatment of any person, by repeatedly striking Howard about the body with his fists inside interview room # 4 at Area on November 3, 1984;
- f) Detective Lotito, violated Rule 8, maltreatment of any person, by jerking Howard's body in the air causing the handcuffs to cut into Howard's wrists inside interview room # 4 at Area on November 3, 1984.

Summary Report, CR 142017.

205. The reopened Howard OPS file and the sustained findings were forwarded to OPS Director Gayle Shines for her review sometime in 1994. Lawrence, Shines and Benefico depositions, *Santiago v. Marquez*.

206. Director Shines kept the Howard file and findings in her office from receipt in 1994 until her leaving in 1998 and took no action on these findings. *Id.*

208. No Chicago police or City of Chicago official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham produced the reopened Howard file and the sustained findings contained therein to plaintiff Patterson, Leroy Orange, Madison Hobley, Stanley Howard or Darrell Cannon or any of their lawyers in their criminal cases from 1994 to 1999. *Id.*

209. No Chicago police or City of Chicago Official or employee, including, but not limited to, Defendants Shines, Martin, Hillard, and Needham produced the reopened Howard

file and sustained findings contained therein to any Cook County Assistant State's Attorney or to other criminal defendant or his lawyers from 1994 to 1999. Id.

210. This CR file and the findings, was further withheld, despite repeated discovery demands, from several civil litigants alleging torture and abuse. See, *e.g.*, *Santiago v. Marquez*, *Wiggins v. City of Chicago*.

211. Donald White testified at his deposition on July 14, 1989, that he was taken into police custody in February of 1982, brought to Police Headquarters at 11th and State by Area 2 detectives, and placed in a room by detectives Hill, McKenna, and O'Hara. White Deposition in *Wilson v. City*, 86 C 2360, 7/14/89, pp. 8-9, 17.

212. White further testified that the detectives asked him questions about who killed police officers Fahey and O'Brien, then Hill got angry and said "I'm tired of this fucking shit," placed a black garbage bag over his head, and then beat him in the head and his chest. Id. at 18, 22, 41.

213. White testified that Hill put the bag over his head two additional times, and that while he was bagged, he was beaten over his head, preventing him from breathing. After the bagging, he said he would tell them anything they wanted to know. Id. at 19-20.

214. White testified that every time the bag was placed over his head, he was hit, and O'Hara, McKenna, Hill and two others were in the room and stood in a circle around him. Id. at 22-23.

215. White further testified that every time he got a detail wrong during the questioning, Detective Hill threatened to hit him and Hill then started to play with his gun and said that he should make him run, shoot him and say that he tried to escape. Id. at 19-21.

216. White testified that after they took a statement from him and he took a lie detector test, Hill threatened to shoot him or push him out of a window. *Id.* at 26, 107.

217. After reviewing 39 photographs at his deposition on July 14, 1989, White identified a picture of Jon Burge as one of the officers who was in the room during the bagging and beating. He also identified Detective Hill's photograph and stated that he was the officer who put the bag over his head. *Id.* at 32-36, 38-40, 47, 56.

218. White further testified that at one time while he had the bag over his head, one of the officers put a gun to his mouth, and at another point, he was hit with fists and a book, or a stack of something. *Id.* at 42, 62.

219. In their Memorandum In Opposition, specially appointed City of Chicago lawyers, on behalf of Superintendent Martin and the City of Chicago, judicially admitted:

On the evening of February 12, 1982, two days before Andrew Wilson's arrest, Donald White was picked up by police officers and taken to 11th and State. He was taken to a room on the 5th floor by Hill, McKenna, Katalinic and respondent O'Hara, and they began asking him who killed the police officers. They continued to ask him and White repeatedly told them that he did not shoot the officers. Hill got mad and said "I am tired of this fucking shit." He took a black garbage bag and put it over White's head and then someone began beating him on his head. Although he could not see them with the bag over his head, there had to have been at least four people hitting him. O'Hara was in the room, as was Burge at various times. When White still stated that he did not shoot the officers and did not know anything, they put the bag back over his head two more times and beat him again. White almost lost consciousness. At one point, someone stuck a gun in his mouth. White then said he would tell them anything they wanted to know. Hill then asked him questions, and, when White didn't have it right, Hill pretended he was going to hit White.

White testified to these facts in a deposition taken in connection with Andrew Wilson's civil trial. White had not told anyone for five years that he had been abused because he feared for his life at the hands of the police officers. When he finally agreed to testify about the abuse he suffered, he did so only on the condition that Wilson's lawyers would move him out of Illinois. In addition, because he was afraid and did not know who he could trust, he did not file an OPS complaint. His mother, however, did file an OPS complaint in connection with his torture at the hands of the police officers. OPS reached a finding of "not sustained."

Memorandum In Opposition filed on January 22, 1992 in the *Matter of Charges Filed against Respondents Jon Burge, et. al.* , Cases # 1856-58, pp. 10-11.

221. At his March 30, 1988 motion to suppress hearing, Aaron Patterson testified that he was arrested on April 30, 1986, taken to Area 2, placed in an interview room, handcuffed to the wall and questioned by Area 2 detectives about the Sanchez homicides, and he denied any involvement. *People v. Patterson*, 3/30/88, pp. 391-93.

222. Patterson testified that Detective Pienta told Petitioner that he was "tired of this bullshit," left the room, and then returned with a gray plastic typewriter cover. Patterson further testified that when he continued to deny his involvement in the crime, he was handcuffed behind his back, the lights were turned out, he was repeatedly hit in the chest, the plastic cover was pushed over his face and ears, he was punched in the chest, and the officers held the bag over his head for at least a minute, suffocating him. *Id.*, pp. 396-404.

223. Patterson further testified that Pienta threatened to do something worse to him if he did not cooperate, that he repeatedly asked for an attorney and persisted in refusing to cooperate, so the detectives again turned off the lights and put the plastic cover over his head. Patterson further testified that the same seven Detectives who were present for the first round of torture, including Pienta, William Marley, and William Pederson, were present again *Id.*, pp. 405-7.

224. Patterson testified that on this second occasion, the "bagging" went on for at least two minutes, he was again punched on the body when the bag was over his head, and that suffocation was even more unbearable than the first time, so he stated to the detectives that he would say "anything you say." *Id.*, pp. 406-7.

225. Aaron Patterson further testified that the detectives then left the room and were gone for an hour, and that during this time Petitioner scratched into a bench in the interview room that he was “suffocated with plastic” and that his statement to the police was false. *Id.*, pp. 411-12.

226. Patterson further testified that a "red haired" officer, returned with an Assistant State's Attorney who told him that the red haired officer said that Patterson wanted to make a statement. Patterson further testified that he asked the ASA to ask the red haired officer to leave, and he did. *Id.*, pp. 413-15.

227. Patterson further testified that when alone with the ASA, he told him he had nothing to say, and wanted a lawyer, the ASA then walked to the door of the room, opened it, and the red haired officer was standing on the other side, and the ASA told the officer that Petitioner did not want to give a statement. *Id.*, pp. 415-16.

228. Patterson testified that the red haired officer returned to the room, said "you're fucking up," took his revolver out, put it on the table top, and said "we told you if you don't do what we tell you to, you're going to get something worse than before -- it will have been a snap compared to what you will get." Patterson further testified that the red haired officer then asked Petitioner if he was going to cooperate, said that if Petitioner revealed the torture, "its your word against ours and who are they going to believe, you or us," and stated that they could do anything they wanted to do to him. *Id.*, pp. 417-19.

229. Patterson further testified that a second ASA, Peter Troy, came in sometime the next day with Detective Madigan, he first agreed to make a statement then refused to do so or to sign a written statement which Troy had written out. *Id.*, pp. 422-34.

230. Aaron Patterson testified that he continued to refuse to sign the statement, ASA Troy physically attacked him, and then Detective Daniel McWeeney entered the room, professed not to be involved in the prior brutality, and urged him to cooperate because the other detectives "could do something serious to him if he didn't." *Id.*, pp. 422-435.

231. In an affidavit, Aaron Patterson averred that the red haired officer was Jon Burge, and that he had so identified him to his criminal defense lawyer in 1989. Affidavit of Aaron Patterson, ¶ 10; Affidavit of Brian Dosch, ¶ 15.

232. In his affidavit and in his July 19, 1999 testimony at the motion to suppress hearing in *People v. Cannon*, Dr. Antonio Martinez averred that on August 12, August 23, September 1, and September 7, 1994, that he personally interviewed Plaintiff Patterson for the purpose of psychologically evaluating him. Affidavit of Dr. Antonio Martinez, ¶¶ 4-5, *People v. Cannon*, 7/19/99, pp. 10-11, 32, 53.

233. In his affidavit and in his *Cannon* testimony, Dr. Martinez averred that he had treated 200 victims of torture and supervised 800 other such cases over the previous eight years, *Id.* ¶¶ 3-4; *People v. Cannon*, 7/19/99, pp. 10-11, 32, 53.

234. In his affidavit and in his *Cannon* testimony, Dr. Martinez averred that during his evaluation of Patterson, he determined whether "psychological markers identifying post Traumatic Stress Disorder resulting from torture were present, and whether [Petitioner's] present psychological condition showed evidence of a past incident of torture," and determined that in his expert opinion, Patterson "was tortured at Area 2 during his interrogation" because he exhibited "six categories of psychological markers which qualify under Post Traumatic Stress Disorder as it is described by the American Psychiatric Association's DSM IV (1994)." (*Id.*, ¶¶

¶¶ 3-4, 8,10; *People v. Cannon*, 7/19/99, pp. 10-11, 32, 53, 58-59.

235. Neither the OPS nor the CPD has opened a complaint register investigation into Aaron Patterson's allegations.

236. Madison Hobley testified at his motion to suppress hearing on August 29, 1989 that he was arrested on January 6, 1987, and he was taken by Detectives Lotito and Dwyer to Area 2 at 111th Street. *People v. Hobley*, 8/29/89, pp. 3-5.

237. Hobley further testified that he was taken from Area 2 to The Bomb and Arson Unit, which was under the Command of Jon Burge, at Police Headquarters at 11th and State, where he was taken by Dwyer and Lotito into a utility room containing a typewriter and cabinets. *Id.*

238. Hobley further testified that Dwyer cuffed his hands behind his back excessively tightly and then hit him in the stomach with a closed fist until Hobley fell from the chair onto the ground, at which point an officer kicked him in the groin. *Id.* at 18-22.

239. Hobley further testified that when he still refused to confess, Lotito said, "I got something for him," and got a plastic typewriter cover off the typewriter and put it over his head and that Lotito held the cover over his head while Dwyer kept hitting Hobley in the stomach, until he blacked out. *Id.* at 22-23.

240. Hobley's Cook County Jail bruise sheet indicates that Hobley informed the medical intake person at Cermak Health Services that he had been beaten by officers. The bruise sheet reflects injuries on his chest and both wrists, and contains an additional handwritten page attached and signed by "Mr. E Hamilton" which states that, "I got all the mark [sic] on his body. C/O of blunt trauma to the chest and wrist." Cermak Health Services History and

Physical Exam of Madison Hobley with attached sheet dated 1/7/87.

241. Lt. Phillip Cline, who is now the Superintendent of Police was the Lieutenant in charge of the Area 2 Violent Crimes Unit on January 6, 1987. Deposition of Cline in *People v. Hobley*.

242. Lt. Cline was present at Area 2 during Hobley's questioning, and discussed the questioning with Detective Dwyer. Id.

243. The OPS opened an investigation into Hobley's allegations of torture on the basis of his sister's complaint shortly after his January 1987 arrest.

244. Hobley gave a statement to the OPS detailing his allegations of torture shortly after the CR investigation was opened.

245. Pursuant to its policy and practice, the OPS suspended its investigation without taking the statements of the accused detectives until after Mr. Hobley's was convicted of murder in July of 1991.

246. After Hobley's trial was concluded in 1991, almost 4 years after the complaint was first filed, the OPS took the detectives' statements and entered a finding of not sustained in Hobley's OPS complaint.

247. On January 10, 2003, Illinois Governor George Ryan granted four Burge death row torture victims, Plaintiffs Aaron Patterson, Madison Hobley, Leroy Orange and Stanley Howard, pardons on the basis of innocence, finding:

The category of horrors was hard to believe. If I hadn't reviewed the cases myself, I wouldn't believe it. We have evidence from four men, who did not know each other, all getting beaten and tortured and convicted on the basis of the confessions they allegedly provided. They are perfect examples of what is so terribly broken about our system.

Statement of Governor George Ryan, Depaul University School of Law, January 10, 2003.

248. The arrest report of Lee Holmes reflects that he was arrested at his home on September 10, 1982, by Sergeant Byrne and Area 2 Detectives Dignan, Lotitio, Boffo, and Binkowski. Arrest Report of Lee Holmes, CR 126802.

249. On June 22, 1993, Holmes told OPS Investigator Veronica [Tillman] Messenger that following his arrest, he was taken to Area 2 at 91nd and Cottage Grove, that after he denied any involvement in a rape the detectives were investigating, he was taken into the basement of Area 2 by Dignan and Byrne, placed on a chair, cuffed behind his back, and was suffocated with a plastic bag which was placed over his head. 1993 OPS Statement of Lee Holmes; CR 126802; *People v. Cannon*, 11/2/99, p. 40.

250. Holmes further stated to OPS investigator Tillman-Messenger that he was also struck in the chest, back and genitals with a flashlight and a rubber hose. *Id.*

251. An Emergency Room Department Report from South Chicago Community Hospital, dated September 10, 1982, states that Lee Holmes told medical personnel he was beaten up by two policemen that day. Bruises to his chest and sternal area were noted on the report, as well as swelling to his left lower arm and elbow. *Id.*

252. On July 29, 1993, Holmes identified Byrne and Dignan from photographs as the officers involved in his torture, and Byrne admitted at his March 1, 2001 deposition in *People v. Patterson* that he participated in Holmes's arrest and interrogation. *People v. Cannon*, 11/2/99, p. 44; Byrne Dep., pp. 123-24.

253. In a 1993 statement to the OPS, Stanley Wrice said that he saw Holmes, his co-defendant, in court after Wrice's arrest, and Holmes told him he had been bagged by the officers. CR 202019, 1993 OPS Statement of Stanley Wrice.

254. OPS investigator [Tillman] Messenger testified in *People v. Cannon* that she recommended that OPS allegations be sustained against Dignan for using excessive force against Holmes. An OPS memorandum indicates that she also found violations of Rule 8 against Dignan and Area 2 detective Dioguardi for hitting Holmes with a rubber hose and placing a plastic bag over Holmes' head. *People v. Cannon*, 11/2/99, p. 46; Shines Memo, 12/21/94.

255. On January 13, 1993, Marcus Wiggins filed a lawsuit in Federal District Court against the City of Chicago, Jon Burge, John Byrne Anthony Maslanka, John Paladino, James O'Brien, and several other Area 3 detectives. Complaint, *Wiggins v. Burge*, #93-C-199.

256. In his lawsuit, Wiggins alleged that, as a 13 year old juvenile, he was arrested on September 25, 1991, and while being transported to the station, was hit in the head with a flashlight by detective O'Brien. Id. ¶¶ 13-15.

257. Wiggins further alleged that he was transported to Area 3, handcuffed to the wall, questioned about a murder, and repeatedly hit in the chest by Maslanka. Id. ¶¶ 16-17.

258. Wiggins further alleged that Maslanka later threatened him with a beating, then subsequently electric shocked him on his hands from a box which had cords, a knob and small paddles. Id. ¶¶ 21-26.

259. After the lawsuit was filed, the OPS opened a CR investigation into Wiggins' allegations. CR # 193591.

260. At his deposition on June 4, 1996, under questioning from City of lawyers, Wiggins again testified concerning his beating and electric shocking. Wiggins Deposition.

261. On September 25, 1991, Jon Burge was Commander of Area 3 and John Byrne was

a sergeant assigned to Area 3. CR 193591.

262. On November 9, 1992 at a motion to suppress in the case of one of Wiggins' co-arrestees, Jesse Clemon, Myron James testified that he was present at Area 3 during the time that Marcus Wiggins and several of his co-defendants were being questioned by Area 3 detectives. *People v. Jesse Clemon*, 91-C-25414, 11/9/92, pp 4-9.

263. On November 9, 1992 Myron James further testified that he heard Marcus Wiggins and Jesse Clemon screaming while he was at Area 3 on September 25, 1991. *Id.* pp 9-13.

264. Myron James further testified that he saw detectives go into a room at Area 3 where another of Marcus Wiggins' co-arrestees, Damoni Clemons was being held, carrying a "little black thing," and he heard screaming from that room. *Id.*, pp. 17, 36.

265. Myron James testified that while at Area 3, he saw detectives hitting another co-arrestee of Marcus Wiggins nicknamed "Squirt" for 15 or 20 minutes. *Id.*, p. 18.

266. Judge Earl Strayhorn granted Jesse Clemon's motion to suppress his confession, finding that:

Given the atmosphere that existed in that District with eleven people under suspicion in custody in the same location the atmosphere must have been horrendously oppressive and I am going to suppress the statements

People v. Clemon, 259 Ill. App.3d 5, 8 (1994).

267. The Illinois Appellate court subsequently affirmed Judge Strayhorn's granting of the motion to dismiss. *People v. Clemon*, 259 Ill. App.3d 5, (1994).

268. On June 12, 1990, Plaintiff Andrew Wilson, by counsel, filed in *Wilson v. City of Chicago* and served upon the City, through counsel, a verified pleading entitled "Corrected and Verified Supplemental Filing In Conformance With Direction of District Court."

269. In the June 12, 1990 Corrected and Verified Supplemental Filing, Wilson's lawyers verified that true and accurate copies of the following documents were attached:

#1) First Letter from anonymous police source, and envelope in which it was enclosed, postmarked February 2, 1989;

#2) Advertisement dated February 7, 1989, placed in the Southtown Economist in Response to letter, and invoice for ad;

#3) Second Letter from anonymous police source, and envelope in which it was enclosed, postmarked March 6, 1989;

#4) Second Southtown Economist Ad, dated March 14, 1989;

#5) Third Letter from anonymous police source, and envelope in which it was enclosed, postmarked March 15, 1989;

#6) Phone message, dated March 15, 1989, from anonymous police source;

#7) Fourth Letter from anonymous police source, and envelope in which it was enclosed, postmarked June 16, 1989.

Corrected and Verified Supplemental Filing In Conformance With Direction of District Court, June 16, 1990.

270. In the First Letter from the anonymous police source, postmarked February 2, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing, the source wrote that several witnesses including the Whites were severely beaten at 1121 S. State Street in front of the Chief of Detectives, the Superintendent of Police and the states attorneys, that Mayor Byrne and State's Attorney Daley were aware of the actions of the detectives, that ASA Angarola told both of them and condoned their actions, that Mayor Byrne and state's attorney

Daley ordered that numerous complaints filed against the police as a result of this crime not be investigated, and that this order was carried out by an OPS investigator named Buckley who is close to Alderman Burke. First Letter from anonymous police source, postmarked February 2, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing.

271. In the First Letter from the anonymous police source, the source further wrote that several of the officers named in the suit had been previously accused of using torture machines in complaints given to OPS and in motions filed in criminal trials, that the device was destroyed by throwing it off of Lt. Burge's boat, and that some of the Area 2 detectives were "disgusted" and "will tell all," and that the torture was not necessary. Id.

272. In the Second Letter from the anonymous police source, postmarked March 6, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing, the source wrote that "I believe that I have learned something that will blow the lid off your case. You should check for other cases where Lt. Burge was accused (sic) of using this devices. (sic). I believe he started many years ago right after he became a detective." Second Letter, postmarked March 6, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing.

273. In the Second Letter from the anonymous police source, postmarked March 6, 1989, the source wrote that "I have checked into who was assigned to Area 2 while this was going on and have some comments on the people assigned. You must remember that they all knew as did all of the state's attorneys and many judges and attorneys in private practice. Id.

274. In the Second Letter from anonymous police source, postmarked March 6, 1989, the source set forth the following lists:

Burge's Asskickers.

Sgt. Jack Byrne (his main man-check his IAD record)
Det. George Basile (his close friend)
Det. Pete Dignan
Det. Frank Glynn
Det. Fred Hill (his involvement (sic) got him a job (sic) at 26th St.)
Det. John Paladino
Det. John Yucaitis

Weak Links

Sgt. Frank Lee (went to Area 3 to get away from Burge)
Sgt. Joe Nolan (Burge dumped him)
Sgt. Mike Hoke (He and Burge were constantly arguing and backstabbing each other)
Sgt Tom Ferry (Burge dumped him)
Sgt. Tom Bennett (an attorney and he and Burge split up with some anger)
Det. Ray Binkowski (talks a lot)
Det. Doris Byrd
Det. Robert Dudak
Det. Pat Hickey (Burge hated her because she was a woman)
Det. Bill Kushner (escaped because of Burge and Byrne)
Det. Frank Laverty
Det Walter Young
Det. John McCabe

Id.

275. In the Third Letter from anonymous police source, postmarked March 15, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing, the source wrote that “ I do not want to be involved in this affair. That is why I asked for the reassurance that these letters would remain private. I do not want to be shunned like Officer Laverty has been since he cooperated with you.” Third Letter from anonymous police source, postmarked March 15, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing. 276. In the Third Letter from the anonymous police source, postmarked March 15, 1989, the source wrote that “Burge hates black people and is an ego maniac. He’d do any thing to further himself.” Id.

277. In the Third Letter from the anonymous police source,, the source further wrote that “I advise you to immediately interview a Melvin Jones who is in the County Jail on a murder charge. He is being retried in Markham. When you speak with him, compare the dates from 1982 and you will see why it is important. You will also find that the States Attorney knew that he was complaining and that is why his charges were dropped then. That decision was made in the top levels of 26th and California.” Id.

278. In the Fourth Letter from the anonymous police source, postmarked June 16, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing, the source wrote that “the common cord is Burge. The machines and 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.” Fourth Letter from anonymous police source, postmarked June 16, 1989, and attached to the June 12, 1990 Corrected and Verified Supplemental Filing.

279. In the Fourth Letter from anonymous police source, the source further wrote that “Burge thinks that this is his most important case and he brags about it. You could check in the taverns at 103rd and at 92 and Western and you will find that Burge youse (sic) to brag about everyone he beat.” Id.

280. In a 1994 OPS memorandum, Investigator Tillman-Messenger stated that she visited the old Area 2 at 9159 S. Cottage Grove, and was given a tour of the basement of Area 2 by Ray Peterson, who stated that he was the building engineer for the building and had been so since September of 1993, that he worked at Area 2 “off and on” from 1988 to 1993, that he resided at 9144 S. Cottage Grove from the late sixties until the early seventies, that “when this building was a police station, it had a pretty nasty reputation,” and that a lot of abuse went on in this station. 1994 OPS memorandum from OPS Investigator Tillman to Chief Administrator, OPS, Attachment 24 to CR file #202019.

281. On August 1, 2003, the *Chicago Reader*, quoting an unnamed Area 2 detective,

wrote the following concerning the five day manhunt in February of 1982 which resulted in the arrest and torture of Andrew Wilson:

The five-day manhunt was directed by Burge, the violent crimes commander in Area Two. It dominated the news. Mayor Jane Byrne offered a \$50,000 reward and met with Burge during the investigation. A now retired Area Two detective who took part in the dragnet told the Reader that "there were a million volunteers....Normally you'd have 15 to 20 violent crimes guys on duty. Now you've got not only them, you've got the property crimes guys, the gang crimes guys. Detectives from Area One were there. The brass was there because it was such a heater case....My partner and I worked 36 hours straight. Burge had to send someone to his house to get clean socks and a shirt. He didn't go home." The detective said, "It was a reign of terror. I don't know what Kristallnacht was like, but this was probably close." Complaints were widespread, with Jesse Jackson saying that the community was living "under military occupation."

"Deaf to the Screams," *Chicago Reader*, August 1, 2003.

282. In his May 20, 2004 affidavit, Melvin Duncan averred that he was a Chicago police detective assigned to the Area 2 Homicide/Sex Unit during the 1970's, and that while at Area 2 he had the occasion to know a Robbery Detective by the name of Jon Burge. Affidavit of Melvin Duncan, ¶¶ 1, 4.

283. In his affidavit, Melvin Duncan averred that during a visit to the Area 2 Robbery Office, he saw a dark wooden box which he thought could give electric shocks, like an electrical device with a crank, wires and prongs which his father had demonstrated on him and his brother when he was a child, did. *Id.*, ¶¶ 5-7.

284. Duncan further averred that while working at Area 2, he sometimes heard loud and unusual noises coming from the Area 2 Robbery Unit Office. *Id.*, ¶ 8.

285. In his affidavit, Melvin Duncan further averred that while working at Area 2 he heard that certain Robbery detectives used an electrical box and cattle prods on people to get confessions from them. *Id.*, ¶ 9.

286. Duncan averred in his affidavit that he worked with detective Peter Dignan while at Area 2 and formed the opinion that Dignan had racist attitudes. *Id.*, ¶ 10.

287. Duncan further averred that while working as an Area 2 detective, he became familiar with a practice of detectives of keeping their own “street” or “unit” files which were not turned over to the assistant state’s attorney or the defense lawyers on the case. *Id.*, ¶ 11.

288. In a sworn court reported statement dated October 12, 2004, Sammy Lacey Jr. averred that he was a Chicago Police detective who worked in the Area 2 Violent Crimes Unit from 1981 to 1988. October 12, 2004 Statement of Sammy Lacey Jr., pp. 3-5.

289. In his sworn court reported statement, Lacey averred that he was at Police Headquarters at 1121 S. State Street in February of 1982 when a suspect was being questioned for the murder of Fahey and O’Brien on an upper floor of the building, and that Jon Burge and the Chief of detectives were also present on the upper floors where the questioning was being conducted. *Id.*, pp. 7-9.

290. Lacey further averred that he went to the Area 2 Violent Crimes office on Sunday, February 14, 1982, while the Wilson brothers were being held there, and that there were “a lot of big brass,” including Deputy Superintendents also present. *Id.* p 11.

291. In his sworn court reported statement, Lacey averred that police personnel who worked at the 5th District police station asked him questions about “ what was going on midnights,” and “what are they doing to people up there on mid nights,” indicating to Lacey that something “was not right on the midnight shift,” and that it “seemed like” there was physical abuse going on at Area 2 on the midnight shift. *Id.*, pp. 16-17.

292. Lacey averred that the midnight shift at Area 2, which was known to him and

other detectives as the “A Team,” had a very high percentage of obtaining written confessions. Id., p. 15.

293. Lacey further averred that Jon Burge was often present at Area 2 when Lacey left work at the end of his shift at midnight, and the midnight shift began its shift, and “if there was any questioning, he was there.” Id., pp. 17-18.

294. Lacey further averred that after Burge left Area 2 and went to Area 3, many of the midnight shift detectives also transferred to Area 3 and that they heard that the same “scuttlebutt” began at Area 3, and that by “scuttlebutt” he meant that he heard off the record from department members that strange things were going on at Area 3 and a lot of confessions were being obtained. Id., pp. 19-20.

295. In a sworn court reported statement dated November 2, 2004, Walter Young averred that he became a Chicago police detective in 1970 and was assigned to Area 2 in 1980 or 1981. Court Reported Statement of Walter Young, pp. 2-4.

296. In his sworn court reported statement, Young averred that he saw a box like object with what appeared to be a crank in the basement area of Area 2. Id. p. 6.

297. Young further averred that after hearing certain stories, and overhearing conversations, innuendos, and gossip from other Area 2 detectives, he concluded that the box that he saw might have been the electrical box that was said to have been used on certain people brought into the Area. Id.

298. Young averred that in the conversations that he overheard at Area 2, there was a reference to the Vietnamese and Vietnam, that suspects could be made to talk if the same techniques were basically used that were used in Vietnam, and that the term “Vietnam special”

or “Vietnam treatment” was used. *Id.*, pp. 7-8.

299. In his sworn court reported statement, Walter Young averred that based on seeing the box, and overhearing conversations, he later deduced that the “Vietnam treatment” probably referred to the use of electric shock.. *Id.*, p, 18.

300. Young further averred that on one occasion, while walking past an interview room, he heard unusual noises, saw Burge walking out of the room, and a black suspect sitting on the floor handcuffed to a ring on the wall. *Id.* p. 10.

301. Walter Young further averred that Burge had a reputation of being forceful in his investigations. *Id.* p. 12.

302. Walter Young averred that during the manhunt for the killers of officers Fahey and O’Brien in February of 1982, he overheard conversations from detectives that force was being used on suspects at Area 2, and heard noises that sounded like furniture being moved in one of the interview rooms during the time that the Wilson brothers were in custody. *Id.*, p. 25.

303. Young averred that he overheard Area 2 detectives say that a phone book would sometimes help people refresh their memories, and that phone books don’t leave marks and plastic bags help to cushion the phone book. *Id.* pp. 27-28.

304. Young further averred that he took an “Ostrich” approach to what went on at Area 2 and left the Area, when possible, when he thought “stuff” was going on there. *Id.*, pp. 11, 27.

305. Young averred that he concluded from the way he and his fellow black detectives were treated by Jon Burge that Burge was a racist. *Id.*, p. 31.

306. In a sworn court reported statement dated November 9, 2004, Doris Byrd averred that she became a Chicago police detective in 1980, was assigned to Area 2 in 1981, worked in

the Violent Crimes Unit on the 5:00 p.m. to 1:00 a.m. shift until 1984, and retired as a sergeant on April 15, 2004. She further averred that Jon Burge took over Command of the Unit shortly after she arrived in 1981. Court Reported Statement of Doris Byrd, pp. 3-6, 17.

307. In her sworn court reported statement, Doris Byrd averred that after Area 2 detective Frank Lavery came forward in the George Jones case and exposed the use of secret street files, Burge pointed a gun at the back of Lavery's head after he left a room at Area 2 and said "bang," and that she took the actions of Burge against Lavery to be a message as to what would happen if police officers came forward and broke the code of silence and exposed police misconduct Id., pp. 6-7..

308. Doris Byrd averred that she sometimes stayed after 1:00 a.m. at Area 2 and from time to time heard screaming and other unusual noises coming from the interview rooms while detectives from the midnight shift or "A Team" were interrogating people, and the hollering included suspects saying "stop hitting me, or "what are you hitting me for?" Id., pp. 8-9, 16.

309. Byrd further averred that she was never questioned by any police investigative personnel about her knowledge of torture and abuse at Area 2 and that while on the force, she "would have to have to think twice" about talking to investigators because "they didn't do much for Lavery when he spoke out." - - - "they stuck him in a unit, never to make rank, and squashed his career." Id., pp. 17-19.

310. Doris Byrd averred that she was told by suspects who were interrogated at Area 2 that they had been physically abused by telephone books, bags, and the electric shock box, that "the black box was running rampant through the little Unit up there" and that she heard about it both from detectives and suspects. Id., pp. 9-11.

311. Doris Byrd further averred that the telephone books, bags, and the electric shock box was somewhat of an open secret at Area 2, that Burge was the head of the Unit and that suspects linked this kind of abuse to Burge or Byrne and the midnight shift. *Id.*, pp, 11-12.

312. Byrd averred that when she was in the Area 2 office during the five day period in February 1982 from the date that officers Fahey and O'Brien were killed until the time that the Wilson brothers were arrested, she heard arrestees screaming and hollering and observed one black male attached to a radiator with steam coming out. *Id.*, p. 13.

313. Byrd averred that in 1983 she was involved in the questioning of arrestee Gregory Banks, that she did not use any force during the questioning, and Banks did not give an inculpatory statement. *Id.*, p. 22.

314. Byrd further averred that the "A Team" then took Banks out of the Area, and when they returned, Banks gave an inculpatory statement to Dignan and Byrne, and that she heard that the confession was obtained with torture tactics. *Id.*, pp. 22, 23.

315. Doris Byrd averred that it was part of a pattern that she often saw that the "A Team" was quite successful in getting statements from suspects and that it was part of the open secret at Area 2 that the tactics that they used to get these statements were the torture tactics she had heard about. *Id.*

316. Doris Byrd averred that from what she saw concerning how he ran his operation, and how he related to blacks and whites, that Jon Burge was a racist. *Id.*, pp. 26-27.

317. In her sworn court reported statement, Doris Byrd averred that it was an open secret and known to the detectives that Burge was heading up a manhunt to find the killers of Officers Fahey and O'Brien where unnecessary force and torture tactics were being used. to

find the killers of Officers Fahey and O'Brien. *Id.*, p. 28.

318. Doris Byrd further averred that it was also known to the detectives at Area 2 that Burge was given a mandate by the Mayor of the City of Chicago to do anything he had to do, including using torture tactics, to clear the murders of Fahey and O'Brien. *Id.*, pp. 28-29.

319. Byrd averred that it was an open secret and known to the detectives that Burge was heading up a manhunt where unnecessary force and torture tactics were being used. to find the killers of Officers Fahey and O'Brien. *Id.*, p. 28.

320. In her sworn court reported statement, Byrd averred that after she was named as a "weak link" in the anonymous police letters, she received a call from a Chicago Police Captain who was a friend of Peter Dignan's named Phelan who said that he had been speaking to Dignan and that Dignan was worried about her testifying against him. *Id.* pp. 33-34.

321. Byrd averred that John Byrne was known as Burge's main man, that he was the head of the A Team, and was identified as one of the people doing the torture. *Id.*, pp. 33-34.

322. Byrd averred that George Basile was known as a close associate of Burge and also had a reputation of being in the group who were torturing people. *Id.*, pp. 35-36.

323. Byrd averred that John Paladino was Basile's partner and had the reputation of being one of Burge's men. *Id.*, pp. 36-37.

324. In her sworn court reported statement, Doris Byrd averred that Frank Glynn, Fred Hill and Peter Dignan were all on the A Team and were in the group who were Burge's men who were involved in the same kinds of acts that Burge was. *Id.*, pp. 36-37.

325. In her sworn court reported statement, Doris Byrd averred that John Yucaitis was on the A Team and had the reputation along with Burge for torture and abuse. *Id.*, p. 37.

326. In her sworn court reported statement, Doris Byrd averred that she and one of her partners at Area 2, Sammy Lacey, both made Sergeant, and if they had come forward while they were on the force with what they knew and heard about police torture, Burge, and the A team, they would have been frozen out of the police system, ostracized, would definitely not have made rank, and would probably have been stuck in some do nothing job. *Id.*, p. 41.

327. In her sworn court reported statement Doris Byrd averred that she also feared that one of her family members might be mistreated by Area 2 detectives, like George Jones was, if she came forward . *Id.*, pp. 42-43.

328. In their statements Byrd, Young, and Lacey all averred that Burge treated them and the other few black detectives in a racist and discriminatory manner when it came to making assignments of cases and giving performance ratings, that they called this to Commander Leroy Martin's attention, but Martin did nothing to stop the practice, but rather reported it to Burge, who then rebuked them for their complaints. Byrd, Lacey, and Young statements.

329. In a sworn court reported statement dated October 4, 2004, William Parker Sr. averred that he was a Chicago police detective assigned to Area 2 Robbery in 1972 or 1973 when he heard a loud human outcry coming from an office there. Statement of William Parker, pp. 5-6.

330. In his sworn court reported statement, Parker averred that the loud human outcry which he heard coming from an office there in 1972 or 1973 was a shrill inhuman type cry of someone obviously hurting or in pain. Parker further averred that other detectives in the Area heard the cries, but did not respond as he did. *Id.*, pp. 6, 13.

331. Parker further averred that in response to the loud human outcry, he forced the closed door to the room open and entered the room. Id., pp. 5 , 7.

332. Parker further averred that upon entering the door to the room, he saw a black male with his pants open and down, handcuffed to a old fashioned radiator which constantly steamed all day, with Jon Burge standing to the black male's left, right next to him, and two other white detectives standing to Burge's left. He further averred that one of the detectives took something off the desk and put it on the floor, and that he believed that they were trying to conceal from him whatever they had taken off the desk and put on the floor. Id., pp. 7-9, 12.

333. Parker averred that later after he had learned about the torture techniques and tactics that they used, and some fellas said that it was something like a black box that they used to give electric shocks, he was led to believe that that could have been what was taken off the desk. Id., p. 8.

334. Parker averred that the black male looked panicked, scared and in pain, then later looked happy that someone was in there who was concerned about him, and that Burge, whom he described as a big redhead, looked shocked and turned beet red in the face when Parker entered the room Id., pp. 10-11.

335. Parker further averred that not long after he entered the room, a sergeant showed up and let him know that it wasn't any of his business and he had no right to barge in while they were conducting their investigation. Id., pp, 13-14.

336. Parker averred that he believed that Lt. Walter Murphy was in charge of the Area 2 Robbery Unit at that time and Burge, Hoke, Houtsma, and several other detectives worked very closely with him and carried out his orders. Id., pp. 14-15.

337. Parker further averred that not long after the incident where he saw Burge in the room next to the male suspect, he was abruptly transferred out of Area 2, and he was led to believe that it was because of what he had witnessed during that incident. *Id.*, p. 16.

338. In a videotaped sworn statement dated March 11, 2004, Eileen Pryweller, sister of Area 2 detective Robert Dwyer, stated that she had a conversation with her brother and Jon Burge at Dwyer's house in mid-January, 1987. *Statement of Eileen Pryweller, 3/11/04*, pp. 5-6.

339. In her statement, Pryweller averred that during this conversation, Burge and Dwyer described how they dealt with "niggers" during interrogations, stating that they "give them hell," "beat the shit out of them, throw them against walls, burn them against the radiator, smother them, poke them with objects, [and] do something to some guys' testicles." *Id.*, pp. 9-10.

340. In her statement, Pryweller further averred that Dwyer said, "this skinny little nigger, boy I got him [by] just torturing him, smothering him," while Burge laughed. They made reference to this torture victim in connection with a gas station and getting a gas can. *Id.*, pp. 10-11.

341. Pryweller averred that Burge seemed proud of his torture tactics, that he and Dwyer were "full of hate," that Burge "described some techniques that he had that no one could even fathom," and that Dwyer said he could "make anyone confess to anything." *Id.*, pp. 11-13.

342. Pryweller averred that in the summer of 2002, while visiting Marin County, California for her sister's funeral, her brother, Robert Dwyer, approached her and in a private conversation, he brought up Burge and the prior conversation, and communicated what she perceived to be a threat. *Id.*, pp. 24-32.

343. John Byrne in sworn testimony at his March 1, 2000 deposition in *People v. Patterson*, and Peter Dignan, in his 1996 sworn deposition in *Wiggins v. Burge*, both admitted that they, Burge and other Area 2 officers commonly used the term “nigger.” Byrne’s Dep., pp. 67-68, 136, 181; Dignan Dep., pp. 60-63, 64-65.

344. On November 1, 1999 at a motion to suppress hearing in *People v. Cannon*, Dr. Robert Kirschner testified as an expert that he was a forensic pathologist, a member of the Human Rights Program at the University of Chicago, a forensic consultant to physicians for human rights, that he had participated in several missions and investigations around the world investigating police and other governmental torture, that over the past 15 years he has evaluated approximately 200 torture victims around the world, and that he has often been called on to evaluate whether there is systematic torture being practiced by the police and other governmental authorities. Kirschner further testified that he has done much of his work on behalf of the United Nations, for whom he has written portions of a protocol which defines the methodologies of torture and how to properly investigate and evaluate cases of alleged torture. *People v. Cannon*, 11/1/99, pp. 5-6, 10-45, 57-59, 69, 80-81, 90-93, 96.

345. Dr. Kirschner further testified in *Cannon* that in his experience and opinion, electric shocking, plastic bagging or *dry submarino*, Russian roulette and other forms of mock executions, and hanging by handcuffs are common forms of police and governmental torture used across the world. *Id.* at 5-6, 10-45, 57-59, 69, 80-81, 90-93, 96.

346. Dr. Kirschner further testified that in his opinion there was a pattern and practice of torture at Area 2 and later at Area 3 Headquarters under the command of Jon Burge, and that this opinion was based, *inter alia*, on his evaluations of several alleged Area 2 and 3 torture

victims, including Andrew Wilson, Darrell Cannon, Leroy Orange and Marcus Wiggins, discussions with Chicago detectives who acknowledged that there was police torture at Area 2, the fact that frequent allegations of electric shock, bagging, Russian Roulette only arose from Area 2 and later from Area 3 Headquarters while Jon Burge was the commander, and not against other officers in other station houses, and that the patterns and methodologies at Area 2 and 3 under Burge and Byrne closely mirrored those which he observed, investigated, and evaluated in places such as Turkey and Israel. *Id.* at 5-6, 10-45, 57-59, 69, 80-81, 90-93, 96.

347. In an affidavit executed in August of 2004, Richard Brzeczek averred that he was the Chicago Police Superintendent from January 11, 1980 until April 29, 1983. Affidavit of Richard Brzeczek, ¶1.

348. Brzeczek further averred that he made the following true and accurate statements to *Chicago Tribune* reporter Steve Mills which appeared in an April 29 2002 *Chicago Tribune* article:

Twenty years later, Brzeczek, now a defense attorney, said that there is ‘no doubt in my mind’ that Burge and his detectives tortured some suspects. The whole situation at Area 2 [was] a disgrace and an embarrassment. It’s time something is done about it,” Brzeczek said, referring to the former Burnside station on the southside where most of the torture allegedly occurred.

Id., ¶¶ 4-5.

349. Brzeczek further averred that “subsequent to [his] resignation from the Chicago Police Department, [he] monitored litigation initiated by persons making claims and/or allegations regarding torture sustained at the hands of police officers at Detective Division Area 2. [He] further monitored the prosecution of certain police officers previously assigned to Area 2 based on allegations of torture and other improper treatment of prisoners under their control

before the Chicago police Board. [He] also monitored media coverage of allegations and legal actions arising out of allegations of torture and other improper treatment brought by persons against police officers assigned to Detective Division Area 2.” Id., ¶ 10.

350. Brzeczek further averred that “based on the fact that allegations continued to arise alleging torture and other improper treatment occurring at a time after [he] left the Chicago Police Department on April 29, 1983, and based upon the fact that Richard M. Daley, State’s Attorney of Cook County, did not conduct (or at least affiant is not aware of any such action), any investigation into the allegations brought to his attention by the affiant in the letter as aforesaid, affiant was and is convinced that some persons held in custody at Area 2 had to be tortured.” Id., ¶11.

351. In his affidavit, Brzeczek further averred that “based on the sheer number of the allegations, the findings of the courts in certain litigation brought against officers assigned to the Detective Division Area 2, and the fact that police officers were discharged and/or suspended for their roles in allegations made against them for the improper treatment of prisoners while assigned to Detective Division Area 2, the affiant was and is convinced that some persons were tortured while in custody at Detective Division Area 2.” Id., ¶12.

352. Thirty former Area 2 and Area 3 detectives and supervisors, while under oath, and represented by lawyers paid for by the City of Chicago, invoked the Fifth Amendment in response to all questions concerning the arrest, interrogation, the alleged torture and abuse of scores of suspects, including, but not limited to, those named in this Summary, and the coercion and fabrication of evidence while they were assigned to Area 2 and Area 3. These officers include the following defendants and witnesses in the Hobley, Patterson, Orange and Howard cases:

- a. former Commander Jon Burge on 9/1/04
- b. former Sergeant John Byrne on 8/20/04
- c. former detective James Pienta on 10/7/04
- d. Sergeant Raymond Madigan on 9/15/04
- e. former detective John Paladino on 7/29/04

- f. former detective William Pedersen on 10/5/04
- g. former detective James Lotito on 8/16/04
- h. Commander William Garrity on 8/5/04
- i. former detective Daniel McWeeny on 9/20/04
- j. former Lieutenant Dennis McGuire on 11/17/04
- k. former detective Raymond McNally on 11/8/04
- l. former detective Robert Flood on 10/8/04
- m. former detective William Marley on 9/23/04
- n. former detective David Dioguardi on 10/5/04
- o. former Lieutenant. Peter Dignan on 8/27/04
- p. detective Robert Dwyer on 7/27/04
- q. former detective Joseph Danzl on 10/5/04
- r. former detective Leonard Bajenski on 1/20/05
- s. detective Michael Bosco on 9/3/04

353. Thirty former Area 2 and Area 3 detectives and supervisors, while under oath, and represented by lawyers paid for by the City of Chicago, invoked the Fifth Amendment in response to all questions concerning whether there were policies and practices of police torture, fabrication of evidence, and police code of silence while they were assigned to Area 2. These officers include the following defendants and witnesses in the Hobley, Patterson, Orange and Howard cases:

- a. former Commander Jon Burge on 9/1/04
- b. former Sergeant John Byrne on 8/20/04
- c. former detective James Pienta on 10/7/04
- d. Sergeant Raymond Madigan on 9/15/04
- e. former detective John Paladino on 7/29/04
- f. former detective William Pedersen on 10/5/04
- g. former detective James Lotito on 8/16/04
- h. Commander William Garrity on 8/5/04
- i. former detective Daniel McWeeny on 9/20/04
- j. former Lieutenant Dennis McGuire on 11/17/04
- k. former detective Raymond McNally on 11/8/04
- l. former detective Robert Flood on 10/8/04
- m. former detective William Marley on 9/23/04
- n. former detective David Dioguardi on 10/5/04
- o. former Lieutenant. Peter Dignan on 8/27/04
- p. detective Robert Dwyer on 7/27/04
- q. former detective Joseph Danzl on 10/5/04

- r. former detective Leonard Bajenski on 1/20/05
- s. detective Michael Bosco on 9/3/04

355. Thirty former Area 2 and Area 3 detectives and supervisors, while under oath, and represented by lawyers paid for by the City of Chicago, invoked the Fifth Amendment in response to all questions concerning whether they participated in, witnessed, or were aware of the alleged torture and abuse of Plaintiffs Aaron Patterson, Leroy Orange, Madison Hobley and Stanley Howard. These officers include the following defendants and witnesses in the Hobley, Patterson, Orange and Howard cases:

- a. former Commander Jon Burge on 9/1/04
- b. former Sergeant John Byrne on 8/20/04
- c. former detective James Pienta on 10/7/04
- d. Sergeant Raymond Madigan on 9/15/04
- e. former detective John Paladino on 7/29/04
- f. former detective William Pedersen on 10/5/04
- g. former detective James Lotito on 8/16/04
- h. Commander William Garrity on 8/5/04
- i. former detective Daniel McWeeny on 9/20/04
- j. former Lieutenant Dennis McGuire on 11/17/04
- k. former detective Raymond McNally on 11/8/04
- l. former detective Robert Flood on 10/8/04
- m. former detective William Marley on 9/23/04
- n. former detective David Dioguardi on 10/5/04
- o. former Lieutenant. Peter Dignan on 8/27/04
- p. detective Robert Dwyer on 7/27/04
- q. former detective Joseph Danzl on 10/5/04
- r. former detective Leonard Bajenski on 1/20/05
- s. detective Michael Bosco on 9/3/04

356. On October 11, 1989, Chief Office of Professional Standards Administrator David Fogel testified before the Chicago City Council and gave the following answers to the following questions by Alderman Rush:

Q: All right. Mr. Fogel, what have you done to discourage, well, first of all do you acknowledge the fact that there is a code of silence that exists in the Chicago

Police Department?

A: In all professions.

Q: Okay. And its, do you acknowledge - - -

A: Including, including the Chicago Police Department.

City Council Hearing, Committee on Police, Fire and Municipal Institutions, Public Hearing on Police Brutality, Day 5, October 11, 1989, p. 285.

357. On October 11, 1989, Police Superintendent Leroy Martin testified before the Chicago City Council and gave the following answers to the following question by Alderman Caldwell:

Q: One final question, Superintendent, and this was asked of Dr. Fogel on numerous occasions. It has to do with the suggested code of silence among police officers. As Superintendent of Chicago's Police Department, do you agree or - - -

A: Yes.

Q: Do you agree that there is in fact in force and functioning a code of silence among police officers?

A: To some extent, yes, sir.

Id., pp. 368-69.

358. On or about October 19, 1987, OPS Director Fogel sent a document entitled "Proposed Revamping of Office of Professional Standards," to the Mayor of the City of Chicago in which he wrote:

By accepting all cases, even erring on the liberal side, to be accommodative to the public, OPS gives the appearance of moving forward on all complaints. The opposite occurs. The appearance of doing a thorough investigation with full due process and endless unnecessary reviews for all, actually operates to immunize police from internal discipline, increases their overtime, leads to an enormous "paper storm" and has institutionalized lying.

"Proposed Revamping of Office of Professional Standards," October 19, 1987, p. 2.

359. [Deleted]

360. *In Jones v. City of Chicago*, 856 F. 2d 985, (7th Cir. 1987) the Seventh Circuit

Court of Appeals affirmed a jury verdict against Area 2 Violent Crimes detectives, supervisors and commanding officers, including detectives James Houtsma, Dennis McGuire, John McCabe, and Raymond McNally, Sgt. Alvin Palmer, Lt. Griffith, and Commander Milton Deas, for conspiracy to “railroad” 18 year old George Jones for a 1981 murder, stating:

We cannot say that the jury acted unreasonably in finding that all of the individual defendants were voluntary participants in a common venture to railroad George Jones.

Jones v. City of Chicago, 856 F. 2d at 992.

361. In *Jones v. City of Chicago*, the Seventh Circuit affirmed a jury verdict against the City of Chicago for maintaining a “street files” custom or policy which led to the railroading of 18 year old George Jones for a 1981 murder, stating:

The custom in question is the maintenance of the "street files," police files withheld from the state's attorney and therefore unavailable as a source of exculpatory information that might induce him not to prosecute or, failing that, would at least be available to defense counsel under *Brady v. Maryland*, 373 U.S. 83, 10 L. Ed. 2d 215, 83 S. Ct. 1194 (1963). As we noted recently, information undermining the credibility of a government witness is within the scope of Brady's rule. See *United States v. Herrera-Medina*, 853 F.2d 564, slip op. at 5 (7th Cir. 1988). Although the lawfulness of the street-files practice has never been adjudicated, the City, which has abandoned the practice, does not challenge the jury's implicit finding that it denied criminal defendants due process of law. *Brady v. Maryland* does not require the police to keep written records of all their investigatory activities; but attempts to circumvent the rule of that case by retaining records in clandestine files deliberately concealed from prosecutors and defense counsel cannot be tolerated. The City sensibly does not attempt to defend such behavior in this court.

There is little doubt that the clandestine character of the street files played a role in Jones's misfortunes. Cf. *Harris v. City of Pagedale*, 821 F.2d 499, 507 (8th Cir. 1987). If the state's attorney had had [*996] access to them, he would have discovered memos by Kelly and especially by Laverty that would have given any prosecutor pause. Alternatively, defense

counsel would have obtained them prior to trial and the trial would have ended even sooner than it did. The only question is whether this custom was a custom of the City of Chicago. As the custom was department-wide and of long standing, the jury was entitled to conclude that it had been consciously approved at the highest policy-making level for decisions involving the police department -- the standard suggested by the recent plurality opinion in *City of St. Louis v. Praprotnik*, 485 U.S. 112, 108 S. Ct. 915, 99 L. Ed. 2d 107 (1988). See also *Stokes v. Bullins*, 844 F.2d 269, 273 (5th Cir. 1988).

Jones, 856 F. 2d at 995.

362. Jerry Mahaffey testified at his motion to suppress hearing in February of 1984 that he was arrested in his apartment at 11216 S. Indiana on September 2, 1983, and he was hit in the nose, thrown against the wall, had a gun pointed at his head, kicked in the groin and right ribs and had a garbage bag put over his head which made it difficult for him to breathe when he was arrested. *People v. Jerry, Reginald Mahaffey*, 2/16/84, pp. 39-40, 734-40.

363. Jerry Mahaffey further testified that he was taken to Area 2, handcuffed in a little room, and interrogated by Sergeant Byrne and detective Grunhard. After he denied any knowledge as to a rifle, the officers tightened his cuffs and told him "You are going to tell us what we want to know because you are going to die anyway." *Id.* at 741-44.

364. Jerry Mahaffey further testified that he appeared in Branch 66 on September 6, 1983, and that an order was signed at that time requesting an examination by a physician at Cermak Hospital and that the Judge in Branch 66 also stated on the record that Jerry Mahaffey had discoloration on the right side of his chest 4-5 inches below his right nipple which was 3 inches in length and one inch in width. *Id.* at 750-51.

365. Sergeant Byrne admitted at his March 1, 2001 deposition in *People v. Patterson* that he and Area 2 Detective Yucaitis participated in Jerry Mahaffey's arrest and that he

participated in his interrogation. Byrne's Dep., pp. 155-56.

366. Detective Grunhard testified at Jerry Mahaffey's motion to suppress hearing that Sergeant Byrne and Detectives Lotito and Boffo were present at 11216 South Indiana when they spoke with Jerry Mahaffey. *People v. Jerry, Reginald Mahaffey*, 2/16/84, pp. 713-14.

367. Neither the OPS nor the CPD has opened a complaint register investigation into Jerry Mahaffey's allegations.

368. Reginald Mahaffey testified at his motion to suppress hearing on February 9, 1984 that he was arrested on September 2, 1983, at 4:15 a.m. in his apartment and kicked in the groin area, rib area and head by an officer in plainclothes. *People v. Reginald Mahaffey*, 2/9/84, pp. 232, 234).

369. Reginald Mahaffey testified that he was taken to Area 2, and during his interrogation, he was suffocated with a plastic bag over his head while his head was being bumped against the wall. He also testified that he was beaten with a flashlight in his mid-section, back, stomach, shoulder blades, shoulder, neck and he was kicked in the leg. (*Id.* at 236-38, 239, 266-67, 289-90).

370. Sergeant Byrne admitted at his deposition in *People v. Patterson* that he participated in Reginald Mahaffey's arrest and interrogation. Byrne Dep. at 74,155-56.

371. Detectives Yucaitis and Grunhard testified at Reginald Mahaffey's motion to suppress hearing that they were present when Reginald Mahaffey was arrested. Byrne's Dep., p. 74; *People v. Jerry, Reginald Mahaffey*, 2/13/84, pp. 77-121, 123, 172.

372. Neither the OPS nor the CPD has opened a complaint register investigation into Reginald Mahaffey's allegations.

373. Michael Johnson testified at his June 14, 1989 deposition in *Wilson v. City of Chicago* that Jon Burge picked him up and took him to Area 2 at 91st and Cottage Grove in June of 1982. Johnson Dep., 6/14/89, pp. 7-8.

374. He further testified that Burge, in the presence of two other officers, questioned him about a homicide, beat him, shocked him with an electrical device, pointed a gun in his face and at his head, asked him if he was ready to talk, threw a chair at him, hit him in the face, and hit him on the head with a gun. *Id.* at 8, 11-13.

375. At his deposition, Johnson described the electrical device as a little box with a wire, and the wire had a little prong like a soldering iron or tweezers attached to it. *Id.* at 14-15.

376. Johnson further testified that Burge placed the prong on his genital area twice for a second each time and it felt like he received an electric current. *Id.* at 15.

377. Willie Porch testified on June 27, 1989 at the trial of *Wilson v. City of Chicago* that he was arrested on September 28, 1979, between 9 and 9:30 p.m., and he was eventually taken to Area 2 where he and Raymond Golden were placed in an interrogation room on the second floor and they were interrogated by Sergeant X, and detective Gorman about a shooting. *Wilson v. City of Chicago*, 6/27/89, pp. 1874-76).

378. Porch further testified that Sergeant X took out his revolver, unloaded it, put one bullet back in the gun, spun the barrel and pointed it at him and Golden. He further testified that X also stepped on his groin. *Id.* at 1877-79.

379. Porch further testified that he was then taken to a second interview room where Sgt. X hit him with his revolver, which was long and silver chromed with a brown handle, on the top and side of his head, and X and Gorman attempted to hang him from a hook while his hands were cuffed behind his back. *Id.* at 1882-85.

380. Porch testified that he was then transported back to an interview room where Raymond Golden was present and he saw Sgt. X hit Golden in the left side of his head with a shotgun. *Id.*

381. Porch further testified that he saw Tony Thompson, whose face and head were swollen and eye was closed, and the officers asked if he wanted to look like “Tony puff face.” *Id.* at 1887-89.

382. Porch further testified that when he refused to make a statement to the ASA, Sgt. X hit him with a revolver 3-4 times in the head and Gorman hit him in the head with his hand. *Id.* at 1890-92.

383. Judge Duff, the Judge in *Wilson v. City of Chicago*, ruled that Burge’s name could not be used by Porch before the jury; hence Porch referred to Burge as Sergeant X in his *Wilson* testimony. *Wilson v. City of Chicago*, 6/27/89, pp. 1874-92.

384. Timothy Thompson testified at his motion to suppress hearing on May 24, 1984 that he was arrested by Jon Burge and other officers on September 29, 1979, he was choked and hit in the eye by one of the arresting officers at the time he was arrested, that he was taken in a squad car by Burge and another Area 2 detective to the police station at 90th and Cottage Grove, and he was questioned by Burge and this detective at the police station *People v. Porch, Thompson*, 5/24/84, pp. 43-45, 52, 59.

385. Thompson further testified that at the station the arresting officers threatened that he would look like his brother, whom they referred to as “Tony puff face,” that he had seen Tony earlier at the police station, and when he saw him, both of Tony’s eyes were closed, and his face was puffed up and black and blue. *Id.* at 46-47.

386. Thompson testified that Sergeant Burge hit him in the jaw and he made a statement

to stop the constant hitting. *Id.* at 46-47, 50.

387. Thompson identified Jon Burge in his motion to suppress testimony, and described him as the “larger sergeant with red hair.” *Id.* at 43, 49, 64.

388. Neither the OPS nor the CPD has opened a complaint register investigation into Porch or Thompson’s allegations.

389. Sylvester Green testified at his motion to suppress hearing on April 23, 1983, that he was arrested on December 28, 1981, and brought to Area 2 located at 91st and Cottage Grove. *People v. Green*, 4/23/83, p. 47.

390. Green further testified that after he was brought to Area 2 on December 22, 1981, three white plain clothes detectives came into the room, pulled his hair pulled back, punched him in the eye, choked him, mashed down his left foot, called him a “nigger” and a “nigger bastard,” handcuffed him to the wall and left the room. *Id.* at 49, 51-53.

391. At his trial, Green identified Detective Basile as the officer who pulled his hair. , Trial transcript, *People v. Green*, p. 1170.

392. At his trial, Green testified that another officer, with sandy brown hair, approached him and said “These guys will tell you I’m the nicest officer in this police station. Just tell the truth and we’ll go easy on you.” *Id.* at 1174.

393. Green further testified at his trial that Lieutenant Burge entered the room the next morning and told him “You’re going to tell us everything we want to know, how you did it and everything. Now we’re going to put you through some real fucking changes. We’re going to start with your fucking balls. We are going to work on you way up again. Work our way back down ‘till you tell us everything we want to know.” *Id.* at 1177.

394. Green further testified at his motion to suppress hearing that Burge re-entered the

room with Area 2 Detectives McNally and McCabe, Burge uncuffed him from the wall, grabbed him by the throat, choked him, kned him in the groin, banged his head against the wall and left him in the room with Detective McNally. *People v. Green*, 4/23/83, pp. 56-57.

395. Green further testified that Burge re-entered the room with a long white plastic bag, and Burge handcuffed both of his hands to an iron ring in the wall, and said “I’m going to do this eighty-seven more times, and I will try shock treatments if necessary.” *Id.* at 59-61.

396. Green further testified at his motion to suppress hearing that Burge then picked up the plastic bag, said “this will leave no visible marks on you,” then snapped it down over his head while asking him questions, and when Green said he didn’t know anything about a gun, Burge tightened the bag over his head, held his head back to the wall and pushed his head against the wall. Green testified that every time he denied knowledge of the crime, Burge tightened the bag up. *Id.*

397. Green further testified that after Burge let the bag go he said “I should hit you in the stomach” and then Burge hit him in the stomach. *Id.*

398. Green testified that Detective Grunhard removed him from the room, he was taken to a victims’s house, and transported back to Area 2. At that time, Burge came in the room and said that if he said anything other than what he previously said to the State’s Attorney, he would get “the whaling of [his] life.” Burge also kicked him in the knee one time. *Id.* at 61- 63, 67.

399. Neither the OPS nor the CPD has opened a complaint register investigation into Green’s allegations.

400. David Bates, who was Gregory Banks’ co-defendant, testified at the Cannon hearing that he was arrested on October 28, 1983, at approximately 7 or 8 a.m., and he was taken to Area 2 at 111th and Ellis Streets following his arrest. *People v. Cannon*, 4/20/00, pp. 104-5,

107.

401. Bates further testified that sometime in the early morning hours of October 29, 1983, two Area 2 detectives, whom he identified as Byrne and Grunhard, entered the interview room where he was being held, asked him questions, and on one occasion, Sergeant Byrne kicked him in the testicles. *Id.*

402. Bates testified that after coming into the room to question him and leaving several times, Byrne and Grunhard again entered the interview room, stated “we got something for guys like you,” brought him to the middle of the room where Byrne put a plastic bag over his head, and kept it there for approximately one minute during which he could not breathe. Bates testified that while the bag was over his head, he was punched in the stomach, which caused him to gasp, and after he gasped out, the edges of the bag sucked in and he felt he was close to passing out. *Id.* at 108-10.

403. Bates further testified that Byrne and Grunhard left the room, then they both returned and again forced a bag over his head. Bates testified that he was more prepared and attempted to holler when the bag went over his head the second time, but the attempt used up all his air. *Id.* at 111-12.

404. Bates previously gave substantially the same testimony about his torture at his July 1, 1985 motion to suppress hearing. *People v. Bates*, 7/1/85.

405. Bates’ lawyer, Clarence Burch, testified at Bates’ motion to suppress hearing that while interviewing Bates at Area 2 on October 30, 1983, he noted that Bates had an abrasion in the middle, center part of his neck, that Bates informed Burch that he gave a statement regarding the murders because the officers put a plastic bag over his head, and Bates told him he had contusions or marks on his chest and stomach. *People v. Bates*, 7/1/85, pp. 298-300.

406. Sergeant Byrne admitted in his deposition in *People v. Patterson* that he participated in Bates' interrogation. Byrne's Dep., p. 150.

407. Alonzo Smith testified at the *Cannon* hearing that on January 22, 1983, he voluntarily went to the station at Area 2 at 91st and Cottage Grove, where he was placed in a line-up, and then taken from an interview room to the basement of Area 2 by Byrne and Dignan, where he saw an old white refrigerator. *People v. Cannon*, 4/20/00, pp. 6-26.

408. Smith further testified that Byrne and Dignan then placed him in a swivel chair with his hands cuffed behind his back, Dignan hit him in the groin with a nightstick, Byrne kicked him in the stomach, that Dignan then placed a plastic bag over his head and secured it with a rubber band, that Byrne then kicked him in the stomach, and that Dignan hit him on his thighs with the stick, after which he lost consciousness. *Id.*

409. Smith testified at his motion to suppress hearing that he awoke on the floor, that Byrne and Dignan then placed him back in the chair and resumed questioning him, and after he refused to make an inculpatory statement, they again placed the bag over his head for a second time, and again kicked him in the stomach and beat him on the thighs, causing him to again lose consciousness, and fall to the floor. *Id.* at 26-29.

410. Smith further testified that after coming to for the second time, Byrne and Dignan again placed him back in the swivel chair, and when Byrne started to put the plastic bag on Smith's head for the third time, Smith noticed blood on the inside of the bag from his mouth, and he agreed to make a statement. *Id.* at 29-31.

411. According to medical records from Cermak Health Services, Smith, upon admission to the jail, was diagnosed as suffering from "multiple blunt trauma." Alonzo Smith's Cermak Health Services Emergency Room Record, 1/23/83.

412. Alonzo Smith also previously described his torture at his June, 1983 motion to suppress hearing. *People v. Alonzo Smith*.

413. Sharon Smith, Alonzo Smith's wife, testified at Smith's motion to suppress hearing that when she first saw her husband after his arrest, his lip was swollen, his rib area was swollen and bruised, and he complained of bruises on his thighs. *People v. Smith*, 6/27/83, pp. 71-75.

414. Paul Sebron, an employee of the Cook County Department of Corrections, Cermak Hospital, testified at the motion to suppress that he conducted an initial physical examination of Alonzo Smith in the receiving area of the Cermak facility on January 22nd or 23rd of 1983. He testified that Smith said he had swelling on his chest and leg, and that Smith complained about his thigh and his chest, and that "his lip was out." Additionally, Sebron testified that in his reports he noted that Smith had swelling in his upper abdomen, portions of the left hand and left thigh. *People v. Smith*, 8/3/83, pp. 186-92.

415. Attorney Latif Abdul Mutakabbir testified at the motion to suppress that while meeting with Smith on January 22, 1983, at 11th and State Police Headquarters, he observed that Smith's face, left side of his rib cage, upper thigh and hands were swollen and discolored and he saw a cut on Smith's lip. *People v. Smith*, 5/30/84, pp. 1470-75.

416. Captain Hunt, a Shift Commander of Division 4 at Cook County Jail, averred in a sworn affidavit that on January 22, 1983, he interviewed Alonzo Smith, and he observed that Smith had bruises on his face and hands including discoloration around his eyes. He further averred that he sent Smith to the hospital because it looked like he needed medical attention. Affidavit of Captain Hunt, ¶¶ 6, 9.

417. Neither the OPS nor the CPD has opened a complaint register investigation into Alonzo Smith's allegations.

418. Leonard Hinton testified at his motion to suppress hearing on July 1, 1985 that when he was arrested on November 25, 1983, he was hit in the stomach and stomped on the head, then taken to a room at Area 2 where he was handcuffed to a ring in the wall. *People v. Hinton*, 7/1/85, pp. 3-5, 7.

419. Hinton further testified that while he was handcuffed, he was slapped in the face, kicked in the stomach, punched in the mouth, hit with a gun on the elbow and under his chin, and then one of the Area 2 detectives said “Stop don’t hit him in the face.” *Id.* at 11-13, 18-22.

420. Hinton further testified at his motion to suppress hearing on July 1, 1985 that another Area 2 detective came in the room, offered him cigarettes and coffee and he said the “best thing is to start talking because these guys are going to come back in and they are pretty mean and they are pretty bad” and that they were not understanding like he was. *Id.* at 23.

421. Hinton further testified that the Area 2 detectives who initially abused him left the room, returned with a plastic bag, which he described as a hefty garbage bag but thicker, and an officer placed it over his head while another officer punched him in the stomach. He testified that they put the bag over his head twice. *Id.* at 24-27.

422. Hinton further testified that Lieutenant Burge later came into the room, asked him whether he knew who he [Burge] was and then identified himself. Hinton testified that Burge asked him whether he was ready to talk or would he like to have the officers return and continue what they were doing, and when Hinton said he couldn’t tell him about the murders, Burge got mad and asked if he was familiar with the electric rod, which was “the same one that had the Wilson brothers.” *Id.* at 32-34.

423. Hinton further testified at his motion to suppress hearing on July 1, 1985 that the detectives returned to the room, and he was then taken to the basement, handcuffed to a pole, his

pants were pulled down, a cloth was put in his mouth, and he was electrically shocked on his genitals and buttocks by a rod attached to a black box. *Id.* at 37-42.

424. Lieutenant Burge testified at Hinton's motion to suppress hearing on July 8, 1985 that he worked at Area 2 Violent Crimes from November 25th through the 28th of 1983, that he came into contact with Hinton, that he appeared in the room where Hinton was questioned to say hello to him because he had previous dealings with him, that he indicated to Hinton he remembered him from a previous dealing and asked Hinton if he remembered him. *People v. Hinton*, 7/8/85, pp. 97-101.

425. Area 2 Detectives Bajenski and Krippel testified at Hinton's motion to suppress hearing on June 11, 1985 that they were involved in Hinton's arrest and interrogation on November 25, 1983. *People v. Hinton*, 6/11/85, pp. 29-30, 34, 43-46.

426. Area 2 Detective Mokry testified at Hinton's motion to suppress hearing on June 14, 1985 that he interrogated Hinton on November 26, 1983. *People v. Hinton*, 6/14/85, pp. 85-86, 88, 90.

427. Neither the OPS nor the CPD has opened a complaint register investigation into Leonard Hinton's allegations.

428. Lavert Jones, who was Thomas Craft's co-defendant, testified on March 5, 1987 at his motion to suppress hearing that he was arrested on January 28, 1984, and transported to Area 2 at 111th Street. *People v. Jones*, 3/5/87, pp. 706-8.

429. Jones further testified that while he was handcuffed to the wall in an interview room at Area 2, John Byrne, Peter Dignan and John Yucaitis beat him on his body with telephone books and clubs, and kicked him. *Id.* at 709-14.

430. Jones further testified that while on the phone with his mother who he was telling

about the beatings, the phone went dead and he was again beaten and kicked in the genitals by Dignan and one of the other two detectives, causing him to vomit. Id. at 721-22.

431. According to his arrest report, Stanley Wrice, along with his brother Charles Wrice and friend Bobby Williams, were arrested at his home on September 9, 1982, at approximately 5:15 a.m. by Sergeant Byrne, Peter Dignan and David Dioguardi and taken to Area 2. Arrest Report of Stanley Wrice, CR 202019.

432. Wrice, who was also a co-defendant of Lee Holmes, stated in a 1993 OPS statement that Dignan and Byrne escorted him to the basement of Area 2 where there were a couple of chairs, and an old, white refrigerator. 1993 OPS Statement of Stanley Wrice.

433. Wrice further stated in his 1993 OPS statement that after he refused to give a statement, Byrne struck him on the forehead with a black flashlight, while Dignan struck him on the legs, arms and back with an object resembling a blackjack. Id.

434. Wrice further stated in his 1993 OPS statement that Dignan and Byrne took him back upstairs and recuffed him to a ring, then left and returned approximately 45 minutes later, telling Wrice that he was lying. Id.

435. Wrice further stated in his 1993 OPS statement that they then took him back to the basement of Area 2, where Byrne told Wrice to stand facing a set of iron bars, then struck him several times on the groin and about the body with a blackjack, while his hands were cuffed behind him. (Id.).

436. In a January 29, 1994 memorandum from OPS investigator Tillman, she wrote that she interviewed Bobby Williams on that date and he stated that after being arrested along with Stanley and Charles Wrice on September 9, 1982, he was subsequently taken to Area 2 where he was questioned in an interview room by the same two white male officers who transported him

to Area 2, and that one of the officers struck him several times on the thighs and once on the groin with a black, flex object with a ball on one end when he hesitated in responding. January 29, 1994 memorandum from OPS investigator Tillman to Chief Administrator, OPS, CR 202019.

437. In Tillman's January 29, 1994 memorandum, she wrote that she interviewed Bobby Williams on that date and that he further stated that while handcuffed to a ring in the wall at Area 2, he heard Stanley Wrice yelling out and crying, and then saw the same officers who had beaten him pulling Stanley Wrice as he walked bent over, down the hall in the direction of a stairwell, then heard again heard Stanley Wrice crying and yelling out. *Id.*

438. In a motion to Quash Arrest and Suppress Statements and Identification, filed on December 23, 1982 in the Circuit Court of Cook County and later sworn to in open court, Rodney Benson averred that on September 9, 1982, he was arrested, taken to a police station, interrogated, and after he denied committing a rape, he was beaten by the arresting officers with a flashlight and with a black piece of rubber with tape on both ends, that he was picked up by the throat and hit in the groin with a flashlight. *People v Benson*, Motion to Quash and Suppress, 12/23/82.

439. In a motion to Quash Arrest and Suppress Statements and Identification, filed on December 23, 1982 in the Circuit Court of Cook County and later sworn to in open court, Rodney Benson averred that after he again denied the rape, he was hit on his groin, back, chest, stomach and knee by the officers, was threatened with hanging, was told by the officers that they had hung other niggers, who also threatened to kill him if they ever saw him in a white neighborhood. *Id.*

440. In this motion, Rodney Benson averred that the officers stopped beating him only after he gave a statement. *People v Benson*, Motion to Quash and Suppress, 12/23/82.

441. The arrest reports of Rodney Benson and his co-defendant Stanley Wrice establish that John Byrne, Peter Dignan and David Dioguardi arrested Benson and Wrice, and Byrne, Dignan, and Dioguardi admitted in their Motion to Suppress Hearing testimony that they arrested and questioned Rodney Benson at Area 2 on September 9, 1982. Arrest reports of Rodney Benson and Stanley Wrice, and testimony of Byrne, Dignan and Dioguardi in *People v. Benson and Wrice*,.

442. Neither the OPS nor the CPD has opened a complaint register investigation into Rodney Benson's or Bobby Williams' allegations.

443. Ronald Kitchen testified at his February 2, 1990 motion to suppress hearing that he was arrested on August 25, 1986, transported to Area 3, and handcuffed to the wall in an interview room on the third floor. *People v. Kitchen*, 2/2/90, pp. 140-45.

444. Kitchen further testified that Detective Kill and a Sergeant punched, hit, slapped and kicked him in the face, head, ribs, side, back, chest, legs and groin in the interview room. He also testified that Detective Byron hit him in the head with a telephone receiver, and Officer Smith hit him with a telephone book and black jack in the ribs and groin. *Id.* at 146-48, 150, 152-55, 162, 172-73.

445. Kitchen further testified that he gave a statement because he was scared and tired of being beaten up. *Id.* at 189.

446. Kitchen further testified that he received treatment at Cermak Hospital including a sling for his scrotum and pain pills. *Id.* at 187-91.

447. At his motion to suppress hearing Kitchen identified Area 3 detective Michael Kill in court and he described the Sergeant as a tall, heavy-set man. *Id.* at 53, *People v. Kitchen*, 9/17/90, p. 1243.

448. After he was shown photographs of Area 2 and Area 3 officers, Kitchen averred in a sworn affidavit that Jon Burge was the Sergeant who hit him and kicked him numerous times in the groin. Affidavit of Ronald Kitchen; Affidavit of Steve Journey.

449. Detectives Thomas Byron, Kill and Smith admitted at Kitchen's motion to suppress hearing that they were involved in the murder investigation and interrogation Kitchen at Area 3 Headquarters on August 25 and 26, 1988. *People v. Kitchen*, 2/1/90, pp. 38-43, 58, 83-84.

450. Neither the OPS nor the CPD has opened a complaint register investigation into Ronald Kitchen's allegations.

451. In an affidavit dated 10/21/85, Franklin Burchette averred that he turned himself in to the police on May 24, 1984. Affidavit of Franklin Burchette, 10/21/85.

452. Burchette testified at his motion to suppress hearing that on May 24th, 1984, he spoke to Area 2 Detective Michael McDermott and was interrogated about a homicide investigation in an interview room on the second floor of Area 2. *People v. Burchette*, pp. 4-5.

453. Burchette further testified that detectives repeatedly accused him of the murders and a detective said "We're going to get the information before this night is over. You're going to tell us everything that happened and why," and when he asked whether he was going to be beaten up a detective said "we got other methods." *Id.* at 7-8, 20.

454. Burchette further testified that the detective then pulled out an electric prod, which was six to nine inches in length and when it was squeezed it would emit a blue flash from the middle of the device, and the detective then threatened him that if he did not talk that he would stick the electrical prod on his genitals. *Id.*

455. Burchette testified that he was also threatened with a beating, he was not allowed to

sleep, and he gave the statement to the detectives that they were seeking so that they would leave him alone. *Id.* at 7-8, 20.

456. Area 2 Detective Solecki testified that he and Detective DiGiacomo interrogated Burchette and that Lieutenant Burge contacted the State's Attorney and consulted with the State's Attorney before the statement was taken. Burchette's Habeas Petition, R. 58-751; R. 667-70.

457. Neither the OPS nor the CPD has opened a complaint register investigation into Franklin Burchette's allegations.

458. Derrick King testified at his motion to suppress hearing on November 20, 1980 that he was arrested in the vicinity of 79th and Wood on February 23, 1980, around 7:30 p.m. and was first taken to the 6th District and then to he was taken to Area 2. *People v. King, Coleman*, 11/20/80, pp. 151-54, 158.

459. King testified that he was taken from the 6th District to another police station to a section called homicide where he was beaten by police officers in the kneecaps and chest with a baseball bat because he wouldn't give them a statement concerning a murder. *Id.* at 67.

460. Michael Coleman, who was Derrick King's co-defendant, testified at his motion to suppress hearing on November 20, 1980 that he was arrested as he entered his apartment in the early morning hours of February 24, 1980, by three police officers who were inside of his apartment. Two more were in an unmarked car that transported him to Area 2. *Id.*, p.116.

461. Coleman further testified that after being taken to an upstairs interview room at Area 2, he was shown a gun, then Detective Dwyer kicked him in the groin. Coleman further stated that he then ran over to the wall and balled up to protect himself, and Dwyer continued to hit and kick him. *Id.* at 119.

462. Coleman further testified that a couple of hours after the initial beating, Dwyer and a bigger officer entered the interview room, at which time the bigger officer grabbed him in a choke hold and Dwyer took a pair of tweezers and started pulling out stitches on his head which were over his right eye. *Id.* at 123.

463. King's attorney, Eugene O'Malley, filed a motion to suppress statements on behalf of King, asserting that King was subjected to "physical and psychological coercion" by members of the Chicago police Department which included being struck repeatedly by Chicago Police officers and being told that until he made a written confession the physical abuse would continue. *People v. King, Coleman*, King's Motion to Suppress Statements.

464. King's motion to suppress further asserted that one of the Chicago police officers who interrogated King was, "J. Pienta, Star [#] 10063." *Id.*

465. J. Pienta, #10063, is listed on the first page of an "Arrest and Clearing Report" dated February 24, 1980, for Derrick King and Michael Coleman, as a "Reporting Officer," and described within the report as both an arresting officer for Coleman and as an investigating officer on the case; Pienta is further listed as a reporting officer on a Line-Up Report concerning the Coleman and King line-up as a reporting officer. *King and Coleman's Police Reports*, dated 2/24/80.

466. Jon Burge testified at King and Coleman's motion to suppress hearing that on February 23, 1980, he was the supervising Sergeant assigned to Area 2 Robbery and he was present with Detectives Corless and Basile for a conversation with King at approximately 8:30 p.m. on February 23, 1980, at Area 2 in an interview room. Burge further testified that between 8:30 p.m. on February 23, 1980 and 2:00 a.m. on February 24, 1980, he was in and out of King's

and Coleman's interrogations, and that he personally asked questions of both King and Coleman. *People v. King, Coleman*, 11/26/80, pp. 371-72, 378, 380, 384.

467. Basile testified at King and Coleman's motion to suppress hearing that Sergeant Burge was present through most of King's questioning regarding the homicide. He also admitted that a number of officers were involved in numerous interviews of King over the course of the evening and morning, "as many as half a dozen officers, perhaps seven either directly or indirectly involved," in the interrogations of King, including Burge. *People v. King, Coleman*, 11/20/80, pp. 301, 303.

468. Detective Dwyer testified at King and Coleman's motion to suppress hearing that Coleman and King were interviewed at Area 2 at various times by, *inter alia*, Detectives Dwyer, Corless, Basile and DiGiacomo, as well as Sergeant Burge. *Id.*, p. 229.

469. Detective DiGiacomo testified at King and Coleman's motion to suppress hearing that after he first encountered King at Area 2 on February 23, 1980 at approximately 8:00 p.m. and had a conversation, Sergeant Burge, Detectives Dwyer, DiGiacomo, Corless, Basile, and Pienta and Sergeant Burge all went with Derrick King to 65th and Loomis to look for Michael Coleman. *People v. King, Coleman*, 11/20/80, pp. 321-25.

470. Burge admitted in his testimony at King and Coleman's motion to suppress hearing that he was present when Coleman was arrested and police reports set forth that Basile, Dwyer, Corless, DiGiacomo and Pienta were also present. *People v. King, Coleman*, 11/26/80, p. 376; Police Reports dated 2/24/80.

471. State witness Leon White testified at King and Coleman's motion to suppress hearing that when he viewed the line-up conducted on February 24, 1980, containing Derrick

King and his co-defendant Michael Coleman, that King didn't look like his [King's] picture which the police had previously shown him; that King's face was swollen and his eye was bruised. *People v. King, Coleman*, p. 205.

472. Neither the OPS nor the CPD has opened a complaint register investigation into Derrick King or Michael Coleman's allegations.

473. Mearon Diggins averred in a sworn affidavit that on October 9, 1985, he was beaten in an Area 2 interview room on his lower body with a flashlight by detectives Pienta, Marley, Paladino and Pederson, in order to obtain a statement, and that his complaint was corroborated by physical evidence. Affidavit of Mearon Diggins.

474. In October of 1985, Diggins' filed an OPS complaint in which he alleged that he was repeatedly beaten by Area 2 Detectives during his October 9, 1985 interrogation. Diggins Affidavit..

475. The City produced Diggins' OPS complaint and CR file in September, 1989 for *in camera* review during Aaron Patterson's criminal trial, and the Court made it part of the record, but it is now missing from the record. *Patterson*, Tr. 1424-34, 1626-33.

476. The City now asserts that it is unable to find Diggins' CR file. Letter of Dan Noland.

477. In a sworn court reported statement dated July 5, 2004, Diggins identified detective John Paladino as the detective who repeatedly beat him, and Burge as the person who was repeatedly in and out of the interview room prior and subsequent to the beatings. July 5, 2004 Statement of Mearon Diggins.

478. Diggins further averred that pictures showing his injury were taken and made part

of the OPS file. Id.

479. Terrence Houston, a 16 year old juvenile, alleged in his signed statement to OPS and in a sworn deposition that he was hit with a flashlight on his knee and shocked with a stun gun on his left leg by a white male uniformed officer who arrested him and took him to the police station on October 13, 1986, after he was falsely accused of a robbery. Summary Report and OPS Statement of Terrence Houston in CR# 153302, Depositions in *Houston v. Lotito et. al.*

480. Fourth District Tactical Officers John Lotito, who is Area 2 detective James Lotito's brother, and John Mablocki, have been identified as Houston's arresting officers. Id.

481. Houston further stated that he was questioned at the Fourth District regarding the robbery, that he was punched in the stomach and slapped in the face by a white male plainclothes officer while being questioned, and that the officer was 5'6" or 5'7", 300 lbs. Id.

482. James Pienta stated in his interview with OPS and at his deposition that on October 13, 1986, that he interviewed Houston at the Fourth District, and he described himself as white male, 5'9", 270 lbs., and 41 years old. Summary Report, 1987 OPS statement of James Pienta, and Pienta's GPR documenting interviews with Houston and Darrell Cleveland in CR# 153302; Pienta Dep. in *Houston*.

483. Terrence Houston filed a civil lawsuit against Pienta, Mablocki, Lotito and the City of Chicago seeking damages for the abuse allegedly perpetrated against him on October 13, 1986, and the City subsequently settled Houston's civil case for \$25,000. *Houston v. Marblocki, Lotito and Pienta*.

484. Michael Tillman testified on November 21, 1986 at his motion to suppress hearing that on July 21, 1986, he was transported to the Area 2 police station at 111th Street by Area 2

Detectives Dignan and Boffo and held in a room on the second floor. *People v. Bell, Tillman*, 11/21/86, pp. 856-58.

485. Tillman further testified that Area 2 Detectives Yucaitis, Dignan, Boffo and Hines suffocated him with a thick, gray plastic bag over his head, hit him with a flashlight on his leg, hit him with a phone book on his head, hit him in the head and stomach with their hands, kicked him in the leg and threatened him with a gun to his head. *Id.* at 863-65, 875, 877-78, 881, 885, 887, 891, 897-98, 904, 908.

486. During his motion to suppress testimony, Tillman identified Detectives Dignan, Yucaitis, Boffo and Hines as the officers who interrogated him and committed the abuse. (*Id.*)

487. Neither the OPS nor the CPD has opened a complaint register investigation into Michael Tillman's allegations.

488. Stephen Bell testified on December 11, 1986 that he voluntarily went to Area 2 on July 21, 1986, and after he was questioned and placed in a line up, he was returned to an interview room on the second floor. *People v. Tillman, Bell*, 12/11/86, pp. 2060-63.

489. Bell testified that three Area 2 detectives, including Detective Yucaitis, brought Michael Tillman into his interview room, then left with Tillman; later, Detectives Boffo, Yucaitis, Dignan and Sergeant Byrne entered the interview room while Bell had one hand cuffed to a bar above the bench he was sitting on. *People v. Tillman, Bell*, 11/20/86, pp. 794-99.

490. Bell further testified that Yucaitis, who was carrying a telephone book, told him that he was "going to start telling the truth;" then, after Dignan cuffed Bell's free arm to the wall, Yucaitis began hitting Bell on the top of the head with the phone book. *Id.*

491. Bell further testified that Byrne then walked behind him, stood on the bench Bell

was sitting on, and kicked him in his ribs, while Dignan hit him on his forehead with the palm of his hand, causing Bell's head to hit the wall, and also struck him in the face with his fist. *Id.* at 800-1.

492. Bell further testified that he eventually agreed to go along with whatever Byrne, Boffo, Byrne, Dignan and Yucaitis said about the crime in order to end the abuse. *Id.*, p. 2071.

493. Sergeant Byrne testified on November 20, 1986 at the motion to suppress hearing that he was the supervising Sergeant on duty for the first watch from midnight to 8:00 a.m. at Area 2 on July 22, and 23, 1986, that Tillman and Bell were in custody at Area 2 on July 22, 1986, and that Yucaitis, Dignan and Boffo were working under his command on the first watch that morning. *People v. Tillman, Bell*, 11/20/86, pp. 498-500.

494. Byrne further testified that he entered both Bell's and Tillman's interview rooms while they were being held on September 22, 1986, and that it was possible that he was in the interview room with Bell, along with detectives Yucaitis, Dignan and Boffo. *Id.* at 504.

495. Neither the OPS nor the CPD has opened a complaint register investigation into Michael Tillman's or Stephen Bell's allegations.

496. Clarence Trotter testified that three weeks after Tillman and Bell's interrogation, he was handcuffed and brought into Area 2 and questioned by Area 2 Detective Madigan about the same murder for which Bell and Tillman had been previously questioned and arrested. Trotter's Petition for Post-Conviction Relief, p. 9 and *People v Trotter*, pp. 2525-26, 2562, 2676, 2688.

497. Trotter further testified that he requested to speak to an attorney and Detective Madigan slammed him against the wall and arrested him. *Id.*

498. June Brown, Trotter's sister, testified that she visited her brother at the station the

day after his arrest and that Trotter looked sickly, tired, and his right eye was bruised. *Id.* at 13, and *People v. Trotter*, pp. 3043-46.

499. Neither the OPS nor the CPD has opened a complaint register investigation into Clarence Trotter's allegations.

500. LC Riley testified at his motion to suppress hearing that he was interviewed by Detectives Raymond Madigan and Robert Dwyer on August 28 and 29, 1985. *People v. Riley*, 230 Ill. App. 3d 1013, 1017, (1992); *People v. Riley*, March 13, 1987.

501. LC Riley further testified that he was handcuffed to a wall in an Area 2 interview room and when he did not supply answers or information, Detective Madigan slapped him, twisted his arm, and punched him in the stomach, and that Detective Dwyer punched him and struck him with a newspaper. *Id.*

502. On September 14, 1985, Riley received medical attention for "blunt trauma" at a hospital after he coughed up blood while brushing his teeth. *Id.*

503. Detectives Madigan and Dwyer testified at Riley's motion to suppress hearing that they were involved in Riley's detention and interrogation. *Id.*

504. Neither the OPS nor the CPD has opened a complaint register investigation into LC Riley's allegations.

505. Andrew Maxwell testified at his motion to suppress hearing on July 23, 1987 that on November 4, 1986, he was taken to a police station, charged with robbery, and detained in Cook County Jail. *People v. Maxwell*, 7/23/87, pp.19, 21-23.

506. Maxwell further testified that on November 12, 1986, two detectives brought him to the State's Attorney's Office at 26th and California, they then transported him to the police

station at 111th and Ellis, where they placed him in an interview room and questioned him about a murder. *Id.* at 24-26.

507. Maxwell further testified that the detectives hit him on his back and side, kicked his leg, slapped him in the face, and his foot was stepped on causing him to give a statement to the murder. *Id.* at 27, 30, 32, 35, 38.

508. At his motion to suppress hearing Maxwell identified Area 2 Detective Glynn as one of the officers in the room. *Id.*

509. At Maxwell's motion to suppress hearing, Area 2 Detective McDermott identified himself, Paladino and Glynn as participating in Maxwell's interrogation on the 12th. *Id.* at 31; *People v. Maxwell*, 11/5/86, pp. 333-34, 346.

510. Jerry Thompson, Maxwell's co-defendant, testified at his motion to suppress on July 23, 1987 that two Area 2 detectives beat him, repeatedly struck him with a flashlight, and kicked him while he was questioned on November 12, 1986. *People v. Maxwell, Thompson and Howard*, 7/23/87, pp. 101-108.

511. Maxwell's other co-defendant, Gregory Howard, testified at his motion to suppress on July 23, 1987 that Area 2 detective Basile, in the presence of Glynn, kicked him several times and slapped him while he was being questioned on November 12, 1986. *Id.*, pp. 493-500.

512. Neither the OPS nor the CPD has opened a complaint register investigation into Andrew Maxwell's, Jerry Thompson's, or Gregory Howard's allegations.

513. James Cody testified at his motion to suppress on April 23, 1984 that he was taken into custody on November 11, 1983, and brought to Area 2 Police Headquarters. *People v. Cody*, 4/23/84, pp. 88-90.

514. Cody further testified that at Area 2 he was struck with a flashlight in the knees, punched in the back, shoved against a wall, and shocked with a stick on his testicles and buttocks. *Id.* at 89-90, 98-100, 110, 115, 122.

515. During his testimony, Cody identified Area 2 detectives Paladino, Basile, and McNally as the officers who interrogated and abused him. *Id.* at 90, 98-100, 115, 122.

516. Neither the OPS nor the CPD has opened a complaint register investigation into James Cody's allegations.

517. Lonza Holmes testified at his motion to suppress hearing that he was taken to a room on the second floor at Area 2 on May 30, 1985, and questioned by several officers, including Lieutenant Burge and Detective Madigan. *People v. Lonza Holmes*, 12/12/85, p. 120.

518. Holmes further testified that Burge slapped him in the face and told him that they had ways of getting information. *Id.* at 123-27, 137-140.

519. Holmes testified that he was taken into another room where Burge handcuffed him tightly to a bar behind his back, and while he was in that room, Madigan and his partner punched him in the chest, kicked him around his ankles, and Burge hit him over the head with a yellow pages phone book. *Id.* at 123-27, 137-140.

520. Holmes further testified that when he refused to talk, Burge chopped him under the neck and hit him in the stomach with his fist, and that after Burge left the room, detective Madigan and his partner drove him to an alley behind the deceased's house and to his house. *Id.* at 140.

521. In his trial testimony, Lonza Homes described Lieutenant Burge as a white man with red hair, on the heavy side, from 220 lbs. to 230 lbs. *People v. Holmes*, 6/26/86, p. 94.

522. McKinley Holmes, Lonza Holmes's brother, testified at Lonza Holmes' motion to suppress hearing that he saw his brother on May 31, 1985 in a police car driven near their home, and he saw that the right side of his brother's face and his left eye were swollen and that his forehead was bruised. *People v. Lonza Holmes*, 12/12/85, pp. 182-85.

523. McKinley Holmes further testified that he went to Area 2 Headquarters in the evening of May 31, 1985, he was told that three to four officers were interrogating his brother including Officer Madigan. He testified that when he saw his brother at the station, his face was still swollen, and his brother said he was hit under the throat, hit with a telephone book in the head and that one of the officers repeatedly hit him in the stomach. *Id.*

524. Jon Burge testified at Holmes' motion to suppress hearing that he was involved in Lonza Holmes' criminal investigation, that he listened outside the door, and he stepped inside the room and observed parts of the interrogation. He also testified that he worked the four p.m. to midnight shift. He described himself as being 6'3" and 240 lbs. on May 30, 1985. *People v. Lonza Holmes*, 2/29/86, pp. 3-4, 6-8.

525. Detectives Madigan and Dignan testified at Holmes' motion to suppress hearing that they interrogated Lonza Holmes on May 31, 1985. *Id.* at 15-16; *People v. Lonza Holmes*, 2/12/86, pp. 15-18, 20-22.

526. Neither the OPS nor the CPD has opened a complaint register investigation into Lonza Holmes' allegations.

527. At an October 1, 1984 motion to suppress hearing, James Andrews testified that he was picked up on April 26, 1983 and taken to Area 2 at 111th Street. *People v. Andrews*, 10/1/84, pp. 26-33.

528. James Andrews testified that on April 26, 1983, he was questioned about a murder by Detectives Madigan and McWeeny at Area 2 in an interview room. *Id.*, pp. 37-41.

529. James Andrews further testified that during the questioning, Madigan grabbed him by the collar while he was handcuffed and punched him twice in the stomach, then punched him three additional times in the stomach *Id.*, pp. 45-46, 48-49.

530. Andrews further testified that later in the questioning, detective Madigan hit him a few more times with his flashlight and with his fists. *Id.*, pp. 57.

531. Neither the OPS nor the CPD has opened a complaint register investigation into James Andrews' allegations.

532. Andrews' co-defendant, David Faultneroy, also alleged in his motion to suppress that he was beaten by Madigan during his interrogation. *People v. Andrews, Faultneroy*.

533. At his November 8, 1991 Motion to Suppress hearing, Cortez Brown testified that on September 21, 1990, he was transported from Area 1 Police Station to the Area 3 Police Station where he was handcuffed to the wall in an interview room and questioned by Area 3 Detectives. *People v. Brown*, 11/8/91, pp. 9-11.

534. Brown further testified that during this questioning, two detectives "started whipping [him] on the arms and in [his] chest," and that one hit him 8 or 9 times on the chest, and the other hit him several times with a steel flashlight on his hands and legs. *Id.*, pp.12-14.

535. At the Brown motion to suppress hearing, Area 3 detectives Maslanka and Paladino testified that they participated in the questioning of Cortez Brown. *People v. Brown*.

536. Neither the OPS nor the CPD has opened a complaint register investigation into Cortez Brown's allegations.

537. "Plaintiff's Proffer of Other Acts of Beating, Torture and Electroshock By Defendant Burge and Other Detectives," filed on May 11, 1989 and served on the City of Chicago by Andrew Wilson's lawyers in Wilson's civil rights trial set forth that:

Edward James and James Lewis were arrested in Memphis, Tennessee by Burge and Area 2 detective Wagner. 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."

Area 2 Burge presided over the interrogation of Lewis and James in separate rooms. Burge laughed when each asked for an attorney saying "you know better than that." Lewis was hit in the throat and slapped in the side of the head, injuring his eardrum. When James refused to talk, he was struck in the mouth by Burge and punched in the neck. James was told he was "gonna talk before 12:00."

538. James and Lewis previously set forth their versions of their arrests, transport, interrogations, and abuse in their testimony at their motion to suppress hearing in March of 1980. *People v. James and Lewis*, 3/10/80.

539. James again detailed these events in a law suit he filed and in a court reported statement given in *Patterson v. Burge* on April 19, 2004.

540. The OPS opened a Complaint Register, CR # 173408, as a result of the James lawsuit, but the complaint was found to be "not sustained."

541. Plaintiff's Proffer set forth that sometime between 1972 and 1974:

Howard Collins was arrested by Burge and then detective, now commander, Hoke. 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 Hoke for one and one half hours, during which time they put a rope around his neck in a noose-like fashion, and injured his throat. When Reverend Daniel, a police Board member, came to Area II to inquire about Collins, he was released. An OPS complaint was subsequently filed.

542. [Deleted].

543. [Deleted]

544. [Deleted]

545. [Deleted].

546. In an Affidavit dated April 2, 2004, Robert Billingsley averred that he had been arrested for murder by Detective Robert Dwyer, who pointed a gun at him while he sat on the toilet, and two or three other white detectives and taken to the police station. Billingsley Affidavit, ¶¶ 3-5.

547. In his Affidavit, Billingsley averred that the arresting officers kicked him while going up the stairs, then handcuffed and beat him in the interrogation room. He further averred that they stuffed papers down his throat until he was gagging and bleeding, beat him on his arm where he had previously been burned while cooking, handcuffed him to the wall and whipped him with phone books and other objects; that his eye was messed up pretty badly, he was bleeding like a pig, and they kept trying to get him to confess to shooting the man. Id., ¶ 5.

548. Billingsley further averred that at one point the arresting detectives opened the door a girl he knew from high school saw him and started screaming for them to stop. Id., ¶ 6.

549. Billingsley averred that they beat him the next day, they took him into his neighborhood, he was bleeding a lot, he was seen by his family, by Henry Little, who was the man who committed the shooting, and Little's father, and they came into the station because they thought the police would kill him if they didn't. Id., ¶¶ 7-8.

550. Robert Billingsley further averred that Little confessed to being the shooter, Billingsley was released, and he went to South Shore Hospital for treatment, and an investigator spoke to him about what had happened to him. Id., ¶¶ 8-9.

551. Robert Billingsley further averred that his mother called in a complaint to OPS and sometime later, Dwyer and one of the other white detectives who had beaten him came to his house and offered him \$3000 to drop the complaint. He further averred that he agreed to drop the complaint, and that Dwyer and the other officer drove him to some office to do so. Id. ¶¶ 10-11.

552. In his affidavit, Billingsley averred that given what the detectives had already done to him, he was afraid for his life. Id., ¶ 14.

553. In a sworn court reported statement dated July 24, 2004, Rodney Mastin averred that on August 4 or 5, 1972 detectives, including Jon Burge came to his house and took him and Philip “Smoky” Moore to Area 2 for questioning about a home invasion which had left a young white boy severely injured. Statement of Rodney Mastin, pp 4-6.

554. In his statement, Mastin averred that on August 4 or 5, 1972, Area 2 detectives, including Jon Burge, took him and Moore up the stairs at Area 2 then past a room where he saw an unrecognizable person handcuffed to the wall in a room he walked by. He further averred that the young black male looked like he had been in a car accident, with his facial features distorted, swollen and bleeding, apparently seriously injured and unconscious. Id., pp 7-9.

555. In his statement, Mastin averred that Burge and the other detectives then took him and Moore into an open room, told them that they knew that he and “Smoky” were involved in a home invasion during which a young boy had been severely beaten, and that before they left the room they were going to tell them everything they knew about the case. Id., pp 8-10.

556. In his statement, Mastin further averred that the detectives then brought the unrecognizable man in from the other room and sat him down across from Mastin and Moore, and he recognized the person as Lindsey Smith, a person he knew very well and saw on a daily

basis. Id., pp 10-11.

557. Rodney Mastin further averred that the detective asked Smith, who looked like a mess, who was involved in the beating and home invasion, and Smith said “Rodney and Smoky did it.” Id., pp 11-12.

558. In his statement, Mastin averred that Moore and Smith were taken from the room and he was questioned by Burge. He further averred that Burge was walking around him during the questioning, and when he gave answers that Burge did not like, he was either punched in the head or knocked to the floor, he was kicked once in the groin, slapped, backhanded, punched in the chest and face, snatched from the floor and slammed back into the chair, and hit on the head with an ashtray. Id., pp 13-16.

559. Mastin further averred that Burge was always in the room and was one of the officers who did the beatings. He further averred that there was always at least two officers in the room, with others coming and going. Id., pp 13-14.

560. Mastin averred that he gave a written statement so the beatings would stop. Id., pp 16-18.

561. Mastin further averred that pictures were taken of Smith which showed his distorted face and that Moore later told him that he was punched during his questioning. Id., pp 19-20.

562. In his statement, Mastin averred that there was a motion to suppress hearing at which evidence of the beatings was presented and at which Burge and other detectives testified and denied any abuse. Id., pp 25-26.

563. In a sworn court reported statement taken on August 25, 2004, Ollie Hammonds averred that on or about September 21, 1979, he was arrested by Chicago Police officers,

including Jon Burge, and George Basile,, and taken to Area 2 where he was questioned about the same homicide that George Powell was arrested for. 8/25/04 Hammonds Statement, pp. 2-5.

564. Hammonds further averred that when he denied involvement, Burge, Basile, and two other detectives beat him on his chest and legs. These beatings continued for six to eight hours. Id. pp. 6-8.

565. Hammonds further averred that sometime during this six to eight hour period, Basile produced a black box, the size of a car battery, which had prongs sticking up and two wires extending from it. Id., pp. 8-9.

566. Hammonds further averred that Burge asked him did he know what this did to a man's dick if we put the two wires on it, and Basile demonstrated it by touching the two wires together, and sparks jumped out. Id., p. 9.

567. Hammonds averred that he told them he would tell them what they wanted him to say, but he would tell the judge that they told him to say it. The detectives were not satisfied, and they moved him to a cell where they handcuffed him to the wall, and held him incommunicado for two and one half days, without food, water, or access to the washroom. Id., pp. 9-10, 13

568. Hammonds further averred that during this period of time, he refused to cooperate, and Burge, Basile, and the other detectives punched him on numerous occasions. Id., pp. 10-11.

569. Hammonds averred that he was charged with the same murder as George Powell was charged with, was held in County Jail for 33 days, then released when the Judge found no probable cause. Id., pp. 15-16.

570. In an OPS statement, Ty Shaun Ross stated that he was electric shocked and otherwise abused by Area 3 detectives, including Daniel McWeeny, while he was being

interrogated on June 5, 1991. CR 185626.

571. [Deleted] while his co-defendant, Travis Richardson, stated that his head was slammed on a table. [Deleted].

572. All of the 100 alleged victims of police torture and abuse by Area 2 and Area 3 detectives and supervisors whose allegations are known to the Plaintiff are African-American. Plaintiff's Listing of Known Burge, Area 2 and 3 Torture Victims, 1972-1991.

573. On April 24, 2002, Judge Paul Biebel, Chief Judge of the Cook County Criminal Division, appointed Special Prosecutors Edward Egan and Robert Boyle to investigate allegations of police torture and abuse at Area 2 and Area 3.

574. On June 8, 2004, in open court, Special Prosecutor Robert Boyle stated that the Special Prosecutor's Office was investigating 108 cases of alleged torture and physical abuse at Area 2 and 3. *In Re: The Matters of Leonard Bajenski, et. al.*, June 8, 2004, p. 27.

575. From 1972 to the present, the only police department discipline which has been imposed against any Area 2 or Area 3 detective, supervisor, or command officer for any allegations of torture or physical abuse made against them has been the firing of Jon Burge and the suspension of John Yucaitis for the torture of Andrew Wilson on February 14, 1982.

576. From 1972 to the present, the City of Chicago and its Police Department has conducted no criminal investigations into any of the allegations of torture or other physical abuse made against Area 2 and Area 3 detectives and supervisors, including, but not limited to, the alleged victims named above.

577. From 1972 to the present, the City of Chicago and its Police Department has not sought criminal charges against any Area 2 and Area 3 detective or supervisor on the basis of

allegations of torture or other physical abuse, including, but not limited to, those made by the alleged victims named above.

578. On February 11, 1993., the Chicago Police Board ordered that Jon Burge be separated from the Chicago Police Department and John Yucaitis be suspended for 15 months for torturing and physically abusing Andrew Wilson. *In The Matter of the Charges Filed Against Jon Burge*, No. 91-1856 (Chicago Police Board, February 11, 1993).

579. On February 10, 1994, Cook County Circuit Court Judge Thomas O'Brien affirmed the Police Board's order separating Burge and suspending Yucaitis, and on December 15, 1995, the Illinois Appellate Court affirmed Judge O'Brien's ruling. *Burge v. Police Board of the City of Chicago*, No. 93 CH 2265, (Circuit Court of Cook County, February 10, 1994); *Burge, O'Hara and Yucaitis v. Police Board of the City of Chicago*, No. 1-94-999, 1-94-2462, 1-94-2475 (consolidated) (Ill. App. Ct., December 15, 1995, unpublished).

580. Twenty-nine of the 30 former Area 2 and area 3 detectives who have taken the fifth Amendment are either receiving salaries or pensions from the City of Chicago.

- a. former Commander Jon Burge (pension)
- b. former Sergeant John Byrne (pension)
- c. former detective James Pienta (pension)
- d. Sergeant Raymond Madigan (salary)
- e. former detective John Paladino (pension)
- f. former detective James Lotito (pension)
- g. Commander William Garrity (salary)
- h. former detective Daniel McWeeny (pension)
- i. former Lieutenant Dennis McGuire (pension)
- j. former detective Raymond McNally (pension)
- k. former detective Robert Flood (pension)
- l. former detective William Marley (pension)
- m. former detective David Dioguardi (pension)
- n. former Lieutenant Peter Dignan (pension)
- o. detective Robert Dwyer (salary)
- p. former detective Joseph Danzl (pension)
- q. detective Michael Bosco (salary)

r. former detective Leonard Bajenski (pension)

581. The following criminal defendants who have alleged torture and abuse by Area 2 or 3 detectives have received new hearings or trial, or had their statement suppressed on the basis of evidence of Area 2 or 3 torture and abuse in the following cases:

- a. Andrew Wilson : *People v. Wilson*, 116 Ill.2d 29 (1987);
- b. Darrell Cannon: *People v. Cannon*, 293 Ill. App. 3d 634 (1997);
- c. Aaron Patterson: *People v. Patterson*, 192 Ill. 2d 93, (2000);
- d. Gregory Banks: *People v. Banks*, 192 Ill. App. 3d 986 (1989);
- e. David Bates: *People v. Bates*, 267 Ill. App. 3d 503, 505 (1994);
- f. Derrick King: *People v. King*, 192 Il. 2d 189 (2000);
- g. Stanley Howard: *People v. Howard*, 84 C 13134. (Ill. Sup. Ct. Order of 6/18/99);
- h. Jesse Clemon: *People v. Clemon*, 259 Ill. App.3d 5, (1994).

582. In a May 21, 2003 *Chicago Tribune* article, Special Prosecutor Egan was quoted as saying: "We believe something happened. You'd have to be a chump not to." "Probers Believe Brutality Claims," *Chicago Tribune*, May 21, 2003.

583. On March 3, 1998, upon becoming Police Superintendent, Terry Hillard told the *Chicago Sun Times* that "barring new evidence, it's time to close the book on the Burge era and move on." Hillard Dep., *Santiago v. Marquez*, 5/3/99, pp. 32-33, 35-36, 43-46

584. In an August 31, 1998 memo from the office of the Superintendent , Thomas Needham, General Counsel to the Superintendent, to Leonard Benefico, Office of Professional Standards, Needham listed the following cases:

Darrell Cannon	CR#134723
Stanley Howard	CR# 142017
Gregory Banks	CR# 188617
Lee Holmes	CR# 126802
Philip Adkins	CR# 142201
Donald White	CR# 169867
Lavert Jones	CR# 200390
Stanley Ware	CR# 202019

and wrote that “you are hereby instructed to classify all of the allegations in the above referenced complaint register files as ‘not sustained.’” August 31, 1998 memo from Thomas Needham, General Counsel to the Superintendent, to Leonard Benefico, Office of Professional Standards.

585. As a basis for this unprecedented order, Needham cited the age of the cases and the purported lack of “new evidence,” when, in fact, a wealth of new evidence had been developed by the OPS investigators in almost all of the cases. *Id.*; CR files of listed cases; Testimony of OPS investigators at *People v. Cannon* Hearing.

586. Superintendent Hillard, after talking to Needham about his decision, ratified his actions in “not sustaining” these cases, stating, under oath, that “I support Tom Needham 100 percent when it comes down to representing me in this department in hard cases like that.” Hillard Dep., *Santiago v. Marquez*, 5/3/99, pp. 32-33, 35-36.

587. In a letter dated August 2, 1999, from Citizens Alert, addressed to Superintendent Terry Hillard, OPS Director Callie Baird and Police Board President Demetrius Carney, the signators wrote:

We write as a group of public officials, citizens and organizations concerned with police violence and discipline to urge you to immediately reopen and review several Office of Professional Standards (OPS) investigations into police torture, and to open investigations in numerous other torture cases where no OPS investigations have been conducted. We further urge you to commission an independent investigation into the obvious violations of police regulations and procedure and legal process by certain OPS and police officials during the torture investigations which were conducted by the OPS.

August 2, 1999 Letter from Citizens Alert, Mary Powers et. al. to Hillard, Carney, and Baird.

588. In the August 2, 1999 letter, the signators further wrote:

Recent news articles and publicly released documents and depositions reveal that the OPS reopened nine torture investigations in 1992 and 1993 as a result of prior OPS findings that physical abuse of African American suspects at Area 2 from 1973 to 1986 included "psychological techniques and planned torture," was "systematic," and "methodical," and that Area 2 command members, particularly Jon Burge, "were aware of the systematic abuse and perpetuated it either by actively participating in same or failing to take any action to bring it to an end." Goldston Report, pp 2-3. The now public evidence further reveals that OPS investigators Tillman, Lawrence, and Cosey conducted thorough investigations in each of these cases, discovered new evidence not available during the initial investigations, and sustained findings in six of the cases. The sustained findings included findings that victims were electric shocked, suffocated with a plastic bag, suspended in air by their handcuffs, beaten and stomped, and racially abused. The evidence further shows that these sustained findings were entered against several police officers who were and are still Chicago police officers in good standing, most notably Lieutenant Peter Dignan, who had allegations of torture and abuse sustained against him in five of the six cases. The evidence further reveals that these findings and the investigative files were tendered to OPS Director Gayle Shines in 1994 for her review, and that she overturned the findings in four of the cases in late 1994 and early 1995, at the same time that Peter Dignan was nominated by the Mayor and the Department for merit promotion to Lieutenant. Ms. Shines has admitted that in the approximately 2500 sustained cases which she reviewed during her eight year career as Director, she overturned a total of 10 cases, including these four against Dignan.

The evidence further shows that in the other two cases, Darrell Cannon and Stanley Howard, Ms. Shines never completed her review of the sustained findings of torture, but rather kept these files in her office for four years, together with the other seven files. Cannon, who was on trial in a murder case, and Howard, who is on death row, sought these files by subpoena, but Shines and the Department failed to produce these files, which contained highly exculpatory evidence. Furthermore, after Ms. Shines left the OPS in 1998, counsel to the Superintendent, Thomas Needham, obtained the nine torture files from the OPS and, without consultation with the Superintendent, summarily reversed the sustained findings and closed the cases. Needham, who, as a longtime assistant state's attorney, was closely connected to the prosecution of several torture victims, including Cannon, admitted that his summary reversals of the torture findings were not based on the merits of the cases, but rather on the fact that the files had languished in Shines' office for so long a period of time. The Superintendent never reviewed these cases on the merits as he is required by police procedure to do, and he only learned of his counsel's unjustifiable actions by reading about them in a February 1999 *Chicago Tribune* article. Additionally, the public evidence reveals that the OPS failed to investigate numerous additional documented cases of police torture against African American suspects. In the case of Melvin Jones, Mary Powers of Citizen's Alert specifically requested by a letter dated July 26, 1989 that the OPS open an investigation into the recently revealed allegations that Jones was electric shocked at by Jon Burge and several other Area 2 detectives who remain on the force to this day. Contrary to police and OPS procedure, no investigation was ever opened, despite the fact that the City has subsequently admitted in

official court papers that Jones was in fact tortured. Similarly, in the Shadeed Mumin case, an investigation was opened and OPS investigators developed compelling new evidence that he was tortured by Burge and an unidentified detective. Just as the OPS investigator was about to identify this officer, the OPS discontinued the investigation, supposedly because the investigation had not been assigned a complaint register number. In numerous other cases, including Aaron Patterson and nine other men who are presently on death row as a result of confessions which they allege were tortured from them, the OPS has failed to conduct any investigation whatsoever into these most serious allegations.

Id.

589. In the August 2, 1999 letter, the signators made the following demands:

1. Given Ms. Shines' clear misconduct, lack of objectivity, and failure to complete her review of the Cannon and Howard sustained findings, that new OPS Director, Callie Baird, conduct an independent review on the merits of the six sustained torture cases;
2. If Ms. Baird concurs with one or more of the sustained findings, that the Superintendent fully and fairly review those findings on the merits, as he is required by police procedure to do;
3. That counsel Thomas Needham be disqualified from any role in reviewing or otherwise participating in any torture investigations;
4. That Peter Dignan and any other active officers against whom torture findings were entered by OPS investigators be suspended pending complete review;
5. That the department and its OPS open an investigation into the allegations that Melvin Jones was electric shocked by Jon Burge and other still active detectives and consider in making its findings that the City has admitted that Jones was in fact tortured;
6. That the Department and its OPS reopen and complete the Shadeed Mumin investigation;
7. That the Department and its OPS open investigations into the other numerous documented cases of police torture, as listed in the Appendix attached hereto, including those allegations made by men on death row;
8. That the Department commission an independent investigation into the serious violations of departmental rules and court process by high ranking police and OPS officials, including Thomas Needham and Gayle Shines;
9. That the Department and the OPS Director meet with representatives from the undersigned groups and discuss these proposals and to periodically report on the progress of these investigations;
10. That these investigations and findings be subject to public scrutiny.

Id.

590. In the August 2, 1999, from Citizens Alert, the signators set forth the following cases

for Director Baird's Review:

Darrell Cannon	CR#134723
Stanley Howard	CR# 142017
Gregory Banks	CR# 188617
David Bates	CR# 188617
Lee Holmes	CR# 126802
Philip Adkins	CR# 142201
Thomas Craft	CR# 200390

Id.

591. In the August 2, 1999, letter, the signators listed the following cases to be Opened8

by OPS:

Melvin Jones	TyShaun Ross
Shadeed Mumin	Derrick King
Aaron Patterson	Michael Coleman
Leonard Hinton	Sylvester Green
Leroy Orange	Paul Mike
Alonzo Smith	Walter Johnson
Leonard Hinton	Roy Brown
Leroy Orange	Eric Smith
Jerry Mahaffey	Franklin Burchette
Reginald Mahaffey	Vincent Wade
James Cody	Willie Porch
Lenard Kidd	Raymond Golden
Lonza Holmes	Tony Thompson
Michael Tillman	Timothy Thompson
Stephen Bell	
Andrew Maxwell	
Madison Hoble	
Ronald Kitchen	

Id.

592. Superintendent Hillard subsequently met with representatives from the signators of the August 2, 1999 Citizens Alert letter.

593. Other than Hillard's meeting with representatives from the signators of the August 2, 1999 Citizens Alert letter, no action was taken on any of the demands made in the letter.

594. In an e mail dated 1/10/02, Corporation Counsel Mara S. Georges wrote to her assistant: “Sheila O’Grady would like us to explore bringing an action against Burge. Will you please think about it and give us your thoughts?” “New documents Report that City Considered Suing Burge, City continues Paying For Fired Commander’s Legal Defense,” NBC 5.com., 4/29/04.

595. On January 1, 2002, Sheila O’Grady was Mayor Daley’s Chief of Staff. *Id.*

596. In response, Jeffrey Given, Georges’ assistant, wrote that suing Burge “would seem to undercut our ability to defend [against the inmates’] suit by challenging the underlying facts . . .” “City Considered Suing Burge; Officials Weighed Their Options to Fight Growing Uproar over Torture Allegations Against the Fired Police Commander,” *Chicago Tribune*, 4/29/04.

597. Mindful that the torture allegations were gaining new momentum, Given and Georges also considered mounting a public relations campaign to counter continuing negative publicity about Burge and the City’s role in the torture scandal. *Id.*

598. Given and Georges recognized that the campaign would not be easy for a wide variety of reasons, including that some of Burge’s men were still on the police force, the department had been embarrassed by Needham’s unilateral shelving of the OPS torture investigations despite the investigators’ sustained findings, and that the *Tribune*’s then recent series on the continuing CPD practice of obtaining false confessions had again focused attention on the issue, and Given further stated “but query how we’ll do in the court of public opinion after a long, public, expensive and embarrassing discovery process?” NBC5.com; *Chicago Tribune*.

599. Instead of suing Burge, or otherwise distancing the City from him, the City decided

to invest unlimited public funds in representing Burge and at least thirty-five other Area 2 detectives accused of torture and abuse in the four torture cases and to fight production and public disclosure of additional documents that would further expose the City's central role in the torture scandal in civil and criminal cases and with the Special Prosecutor. *Id.*

600. On August 27, 2004 in his sworn testimony before the Prisoner Review Board, former Area 2 Commander and Superintendent Leroy Martin falsely denied that he did not have contemporaneous knowledge of the allegations of torture and abuse against Jon Burge and other Area 2 detectives while he was Commander. Tr. of 8/27/04 Parole Revocation Hearing of Darrell Cannon.

601. In her concurring opinion in *Hinton v. Uchtman (sub. nom.)* ___F 3d ___ (7th Cir. 2005), Seventh Circuit Court of Appeals Judge Diane Wood found:

[T]he claim Hinton has made regarding his confession illustrates dramatically the high price our system of criminal justice pays when police abuse runs rampant: a cloud hangs over everything that the bad actors touched . . . [A] mountain of evidence indicates that torture was an ordinary occurrence at the Area Two station of the Chicago Police Department during the exact time period pertinent to Hinton's case. Eventually, as this sorry tale came to light, the Office of Professional Standards Investigation of the Police Department looked into the allegations, and it issued a report that concluded that police torture under the command of Lt. Jon Burge — the officer in charge of Hinton's case — had been a regular part of the system for more than ten years. And, in language reminiscent of the news reports of 2004 concerning the notorious Abu Ghraib facility in Iraq, the report said that "[t]he type of abuse described was not limited to the usual beating, but went into such esoteric areas as psychological techniques and planned torture." The report detailed specific cases, such as the case of Andrew Wilson, who was taken to Area Two on February 14, 1982. There a group led by Burge beat Wilson, stuffed a bag over his head, handcuffed him to a radiator, and repeatedly administered electric shocks to his ears, nose, and genitals. See *People v. Wilson*, 506 N.E.2d 571 (Ill. 1987). Burge eventually lost his job with the police, though not until 1992. See *In the Matter of the Charges Filed Against Jon Burge*, No. 91-1856 (Chicago Police Board, February 11, 1993). To this day, Burge has not been prosecuted for any of these actions, though it appears that he at least thinks that he may still be at some risk of prosecution. See, for example,

"Cop brutality probe must be thorough, fair," Chi. Sun-Times, May 16, 2002 (editorial); Hal Dardick, "Burge repeatedly takes 5th; Former police commander stays mum on torture questions," Chi. Tribune, Sept. 2, 2004 (noting allegations that Burge or people reporting to him had tortured 108 Black and Latino suspects between August 1972 and September 1991). . . .

Behavior like that attributed to Burge imposes a huge cost on society: it creates distrust of the police generally, despite the fact that most police officers would abhor such tactics, and it creates a cloud over even the valid convictions in which the problem officer played a role. Indeed, the alleged conduct is so extreme that, if proven, it would fall within the prohibitions established by the United Nations Convention Against Torture ("CAT"), which defines torture as "any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession . . .," thereby violating the fundamental human rights principles that the United States is committed to uphold. . . .