

**Midwest Coalition for Human Rights
c/o The University of Minnesota Human Rights Program
Minneapolis, Minnesota, U.S.A.
Barbara Frey, Director**

March 20, 2006

Executive Secretary Santiago Canton
Commissioner Jose Zalaquett
Commissioner Clare Kamau Roberts
Commissioner Evilio Fernandez Arevalos

Inter-American Commission for Human Rights
Organization of American States
Washington, D.C.

Re: follow up on October 14, 2005 General Interest Hearing regarding the torture of African American detainees by the Chicago Police Department

Dear Colleagues,

The Midwest Coalition for Human Rights, an organization which represents non-governmental organizations and academic human rights programs in an eight-state region of the U.S., respectfully requests that the Inter-American Commission for Human Rights initiate an investigation of the facts in the above-mentioned case.¹ We request that the United States government consent to a site visit to Chicago by a committee of the Inter-American Commission and/or the Special Rapporteur on Persons of African Descent and Against Racial Discrimination.

Background

The torture of African American men by Chicago police is well established. During the period from 1972 to 1991, primarily at a Chicago Police station known as Area 2 Headquarters, a group of police officers under the leadership of former Chicago Police Commander Jon Burge systematically committed brutal acts of torture against citizens of African descent who were in police custody. The torture included the administration of electric shocks to the victims' ears and/or exposed genitalia using a cattle prod or a hand-cranked generator; conducting mock executions using unloaded firearms; suffocating victims with plastic typewriter covers; and burning victims by holding them against hot radiators, among other techniques. Such treatment fits the definition of "torture" as delineated in Article 1 of the Convention Against Torture.

To date, approximately 135 Chicago citizens of African descent have been identified as having been victimized by the police torture described above.² Typically confessions to serious crimes were extracted from the victims who were then prosecuted by the Cook County States Attorney's

¹ The coordinating council of the Midwest Coalition for Human Rights includes: Barbara Frey (University of Minnesota), Bernardine Dohrn (Northwestern University Law School, Chicago), Rev. Sid Mohn (Heartland Alliance, Chicago), Milo Mumgaard (Nebraska Appleseed, Omaha), and Robin Phillips (Minnesota Advocates for Human Rights).

² Victims have been located by attorneys, civil society organizations, and by a Special Prosecutor appointed by the Circuit Court of Cook County who in June 2005 reported a total of 135 documented cases of torture and abuse by police under the command of Jon Burge.

office and convicted, based in whole or in part upon involuntary confessions obtained under torture.

Some of the victims were sentenced to death and spent many years on Illinois' Death Row, until their sentences and those of all other Illinois Death Row inmates were commuted in 2003 by former Illinois Governor George Ryan. Governor Ryan also pardoned four of the Burge torture victims on the grounds of actual innocence: Aaron Patterson, Madison Hobley, Leroy Orange, and Stanley Howard. Of the Area 2 victims, it is estimated that several dozen remain in prison today, serving sentences resulting from convictions based on confessions obtained under torture at Area 2.

A number of judgments acknowledging torture have been rendered in civil cases brought by victims, as well as by appellate courts reviewing some of the victims' criminal convictions. Furthermore, Chicago Police investigators have admitted the systematic nature of the practice in a 1990 report by the Office of Professional Standards (OPS) which cited 50 cases of torture and abuse at Area 2. In a document known as the Goldstone Report, the OPS concluded that abuse was "systematic," "methodical," and "included psychological techniques and planned torture." Nevertheless, the perpetrators of the torture continue to enjoy impunity with regard to their crimes. None has ever been charged with a crime.

Under the U.S. legal system private parties or crime victims do not have the right to institute criminal proceedings against the alleged perpetrators of a crime; prosecutorial authorities enjoy almost complete discretion with respect to initiating criminal proceedings. Despite numerous requests by victims, civil society organizations, and the media, none of the police officers or higher level officials responsible for established incidents of torture has ever been charged with a crime. The responsible local authority for the initiation of criminal charges in these cases is the Cook County States Attorney. Richard M. Daley, the Cook County States Attorney at the time the Area 2 abuses were first brought to public attention, is now Mayor of the City of Chicago. Neither States Attorney Daley nor his successor Richard Devine ever instituted a criminal prosecution against any of the officials responsible for torture in Area 2. Nor has the United States Attorney for the Northern District of Illinois (an office of the federal government with authority over federal crimes) ever charged any of those responsible.

Violations of the American Declaration on the Rights and Duties of Man

The acts of officials of the Chicago Police Department recounted above, as well as the failure to act by responsible local and national officials to prosecute those responsible, violate key provisions of the American Declaration on the Rights and Duties of Man, to which the United States is a party.

The relevant provisions are:

Article 1, which provides that "Every human being has the right to life, liberty, and security of his person." Clearly the routine torture and other abusive treatment of persons detained for questioning violated detainees' rights to the security of their persons.

That such practices were carried out exclusively against African American detainees and that such practices were tolerated by knowledgeable officials constitute a violation of Article 2: "All persons are equal before the law and have the rights and duties established in this Declaration, without distinction as to race, sex, language, creed, or any other factor."

Finally, it is absolutely clear that the torture and other cruel, inhuman, and degrading treatment of persons detained for questioning practiced at Area 2 Headquarters constituted a violation of Article 25 which provides, in part: “Every individual who has been deprived of his liberty has the right... to humane treatment during the time he is in custody.”

Violations of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment

The facts outlined above also clearly indicate that the Chicago Police Department is responsible not only for isolated incidents of torture, but for allowing a widespread practice of torture to continue for two decades. The United States Government, despite the fact that it was well-informed of the use of torture by Chicago police, has failed in its obligation under the Convention Against Torture to “take effective... administrative, judicial or other measures to prevent acts of torture in any territory under its jurisdiction.” (Article 2(1)).

The Convention Against Torture clearly states that State Parties shall “ensure that its competent authorities proceed to a prompt and impartial investigation, wherever there is reasonable ground to believe that an act of torture has been committed in any territory under its jurisdiction” (Article 12) and that “any individual who alleges he has been subjected to torture in any territory under its jurisdiction has the right to complain to, and to have his case promptly and impartially examined by, its competent authorities” (Article 13).

Furthermore, despite the fact that the Convention Against Torture prohibits the use of “any statement which is established to have been made as a result of torture [as] evidence in any proceedings,” (Article 15) dozens of individuals were been charged, convicted and imprisoned for crimes they confessed to as a result of torture. Several dozen of these individuals continue to languish in prison despite continued claims of innocence. Those Area 2 victims who were pardoned by Governor Ryan continue to suffer the effects of their illegal imprisonment. Questions of guilt or innocence aside, the use of evidence obtained through torture is clearly in violation of the Convention Against Torture.

Finally, these practices and the failure to prosecute those responsible violate the anti-discrimination provisions of the Convention. The Convention Against Torture clearly prohibits the intentional infliction of “severe pain or suffering, whether physical or mental... for any reason based on discrimination of any kind.” (Article 1(1)). The victims of the torture detailed above were all African-American, which suggests that race was a factor in the use of torture by Chicago police. Recognizing the ubiquity of racial prejudice and discrimination in American society, including in the United States legal system, we have reason to believe that the race of the victims has also contributed to the government’s failure to rectify the situation.

Despite the fact that the torture took place at Area 2 between 1972 and 1991, before the United States ratified the Convention Against Torture in 1994, we believe that the failure to investigate these cases, coupled with the continuing effects on the victims of the past torture constitute a continuing violation of the CAT.

Proposed Investigation

With the above facts in mind, the Midwest Coalition for Human Rights urges that the Inter-American Commission send a delegation of Commissioners to Chicago or, in the alternative, designate the Special Rapporteur on the Rights of Persons of African Descent and Against Racial Discrimination to travel to Chicago to conduct an investigation.

We respectfully suggest that the designated Commissioners of the Inter-American Commission for Human Rights meet with victims and their families and attorneys, with concerned civic organizations, and with officials of the relevant agencies of the United States, State of Illinois, County of Cook, and City of Chicago governments and pose the following questions regarding these cases:

1. What steps have officials of the United States government and/or all responsible units of local government taken or what steps do they plan to take, to ensure that a full and impartial investigation is made into the acts of torture committed by Chicago police?
2. What steps have officials of the United States government and/or all responsible units of local government taken or what steps do they plan to take, to ensure that the victims of torture at the hands of Chicago police obtain redress and fair and adequate compensation, including the means for as full rehabilitation as possible?
3. What steps have officials of the United States and/or all responsible units of local government taken or what steps do they plan to take, to ensure through education and information and the training of law enforcement personnel that similar acts of torture are not perpetrated by Chicago law enforcement personnel in the future?
4. What steps have officials of the United States and/or all responsible units of local government taken or what steps do they plan to take to address the use of statement made as a result of torture as evidence in criminal prosecutions brought against victims of torture in State of Illinois and Cook County courts?

We further suggest that the Inter-American Commissioners and Special Rapporteur meet with current and former officials of the Chicago Police Department; with Richard Devine, the Cook County States Attorney; with Chicago Mayor Richard M. Daley (former Cook County States Attorney during the relevant time period); with Patrick Fitzgerald, the United States Attorney for the Northern District of Illinois (responsible for prosecutions under federal civil rights statutes); and with interested civil society groups.

Thank you for your interest in this case. We urge that you contact representatives of the Midwest Coalition for Human Rights for further information or assistance in the preparation of the proposed visit to Chicago.

Sincerely yours,

Barbara Frey

Barbara Frey
On behalf of the Midwest Coalition for Human Rights