

**BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION**

In re:  
Claim of Thomas Childs

TIRC Claim No. 2011.037-C  
(Relates to Cook County Circuit Court  
Case No. 92-CR-27295)

**CASE DISPOSITION**

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b) (the "Act"), the Commission concludes that there is not sufficient evidence of torture to merit judicial review. This decision is based upon the Factual Summary and Conclusions set forth below, and the supporting record attached.

**Introduction**

Thomas Childs ("Mr. Childs") and his co-defendant, Tedd Mitchell, were convicted of murdering Yusef Wright on November 3, 1992. Their trials were severed. After a bench trial, on May 22, 1995, Mr. Childs was convicted of first-degree murder, attempted armed robbery, and home invasion. Mr. Mitchell was convicted by a jury on May 19, 1995.

Mr. Childs claims that Chicago Police Detectives John Halloran and Kenneth Boudreau slapped him during interrogations on November 13 and 14, 1992, coercing him into signing a written confession used as evidence against him at his trial. Mr. Childs was sentenced to eighty years in prison.

While a few factors weigh in favor of Mr. Childs' claims, the Commission finds that the evidence offered in support of Mr. Childs' claims is insufficient to merit judicial review under the Act.

**Timeline of Mr. Childs' torture allegations**

- November 13, 1992 at approximately 10:30 p.m.: Officer Curtis Thomas arrives at 4422 1/2 Drexel, reads Mr. Childs his *Miranda* rights, and takes Mr. Childs into custody.
- November 13, 1992 at approximately 10:45 p.m.: Mr. Childs arrives at the Area 1 Violent Crimes police station and is placed in an interview room.
- November 14, 1992 at approximately 12:01 a.m.: Mr. Childs is interrogated by Detectives Halloran and Boudreau in an interview room at Area 1. Detective Halloran informs Mr. Childs of his *Miranda* rights. Mr. Childs does not invoke his rights to remain silent or to request counsel.

- November 14, 1992 between approximately 12:01 a.m. and 1:01 a.m.: Mr. Childs testified that Detectives Halloran and Boudreau told him that his co-defendant was saying that Mr. Childs was present at the scene of the murder and that Mr. Childs was involved. Mr. Childs testifies that Detectives Halloran and Boudreau were slapping him a few times and described it as “the usual thing they do to people that they investigate.” Mr. Childs in subsequent interviews stated that Detectives Halloran and Boudreau were playing chess in the interview room and taking turns “slapping on” him. Mr. Childs stated the detectives slapped him approximately 30-40 times, which resulted in a red face and a cut lip.
- November 14, 1992 between approximately 1:01 a.m. and 5:00 a.m.: Mr. Childs testified that he was moved into the bullpen for a period of time before he was returned to an interview room.<sup>1</sup>
- November 14, 1992 between approximately 5:00 a.m. and 6:10 a.m.: Mr. Childs returns to the interview room where he signs and initials a handwritten statement, prepared by Assistant State’s Attorney (“ASA”) Michael R. Clancy and in the presence of Detective Halloran, which amounts to a confession that he and Mr. Mitchell agreed to rob Mr. Wright of cocaine he was selling, that Mr. Childs retrieved the baseball bat from the Mitchell apartment, and that he watched Mr. Mitchell beat Mr. Wright to death with the baseball bat. ASA Clancy takes a Polaroid photograph of Mr. Childs at this time.
- November 14, 1992 after giving his statement at approximately 6:10 a.m.: Mr. Childs was offered coffee, cigarettes, and White Castle hamburgers, and he ate hamburgers after giving his statement.

**The factors weighing *in favor* of Mr. Childs’ claims:**

- Mr. Childs’ statements regarding physical abuse are generally consistent across his suppression hearing, his post-conviction filings, his TIRC claim form, and in subsequent interviews. In an interview conducted in 2013, Mr. Childs stated that Detectives Halloran and Boudreau were playing chess in the interview room and took turns slapping him. Subsequently, in an interview conducted in 2018, Mr. Childs again described the chess game (but added that the detectives were playing it on a computer) and said they took turns playing the game and slapping him.
- There is significant, substantiated, and consistent pattern and practice evidence of abuse allegations that have been alleged against both Detective Halloran and Detective Boudreau.
- Mr. Childs’ co-defendant, Mr. Mitchell, also made abuse allegations against the police detectives who interviewed him, which included Detectives Halloran and Boudreau, in his motion to suppress his statement. Mr. Mitchell alleged that a detective pushed him in the chest, slapped him in the head and forehead, shoved him to the floor, and made threats about beating Mitchell as the victim had been beaten.

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<sup>1</sup> Detective Halloran’s testimony disputes this. Detective Halloran testified that Mr. Childs remained in the interview room until ASA Clancy arrived.

- Childs' testimony that when he was arrested, he was found asleep on the floor, was confirmed by the State. That is consistent with his claim of intoxication. While not conclusive, that raises a credibility argument about police claims that he was not intoxicated.

**The factors weighing *against* Mr. Childs' claims:**

- There are inconsistencies with respect to the third parties whom Mr. Childs claimed to have told about the slapping. For example:
  - At the hearing on his motion to suppress his statement, Mr. Childs testified he had not told anyone else about the slapping until that moment under cross-examination. Later, Mr. Childs claimed that *before* the suppression hearing he had described the slapping to his bond court attorney, his trial attorney, and the bond court judge.
  - Neither at the suppression hearing nor at trial did Mr. Childs' attorney ask on direct examination about the slapping, even though Mr. Childs claimed he had previously told his lawyer about it.
  - Mr. Childs claimed that he informed the judge at bond court of the slapping, but the bond court transcripts do not reflect any mention of the slapping.
- Mr. Childs' testimony and statements are inconsistent regarding who was involved in the slapping and its severity. Mr. Childs only included mention of Detective Halloran (and does not mention Detective Boudreau) in his post-conviction petition when describing the slapping. Later, Mr. Childs alleged that *both* Detective Halloran and Detective Boudreau took turns slapping him. Further, his description of the slapping varied, sometimes he said it was a few times and others 30-40 times.
- The photograph taken of Mr. Childs shortly after giving his statement to Detective Halloran and ASA Clancy does not show evidence of physical harm, whether the results of repeated blows to the face or a cut lip, which Mr. Childs later claimed he suffered.
- Mr. Childs' credibility is suspect in at least some respects because of prior convictions for burglary.

**Factual Summary**

**I. Background**

In connection with the investigation of the murder of Mr. Wright, Officer Curtis Thomas arrested Mr. Childs at his girlfriend's home after reading him his *Miranda* rights. Mr. Childs had been out drinking with a friend that evening and Officer Thomas found him asleep on the floor. Mr. Childs was taken into custody and questioned by Detectives Halloran and Boudreau at the Area 1 Violent Crimes police station.

Mr. Childs alleges that he was slapped by Detectives Boudreau and Halloran while he was in custody, before agreeing to sign a confession.<sup>2</sup> After confessing, Mr. Childs was indicted and convicted of first-degree murder, attempted armed robbery, and home invasion in case No. 92-CR-27295.

Prior to trial, Mr. Childs unsuccessfully moved to suppress his statement.<sup>3</sup> His written motion to suppress and Mr. Childs' testimony at the suppression hearing mainly focused on his level of intoxication when he signed the confession and whether he was informed of his *Miranda* rights. In both his written motion to suppress and his testimony under direct examination at the motion to suppress hearing, he did not mention being physically abused by police detectives.<sup>4</sup> He made the slapping claim for the first time during cross examination at the suppression hearing. In response to the state's questions, Mr. Childs described being interviewed by two detectives who "kept asking me about a murder" and how he told them he didn't know anything about it.<sup>5</sup> Mr. Childs added that the detectives "kept saying that Ted[d] Mitchell was saying I did things, and that he was there," and that "[the detectives] [were] slapping me a few times, the usual thing they do to people that they investigate."<sup>6</sup> The state confronted Mr. Childs about the abuse testimony: "Mr. Childs, you never mentioned to anybody before this morning now that they slapped you that day; did you mention that?" Mr. Childs responded, "No, I did not, you know, because that is something they usually do. They do that to everybody, you know. It wouldn't make no difference no way."<sup>7</sup> Mr. Childs admitted on cross that before that moment he had not told anyone about the slapping, including ASA Clancy who Mr. Childs encountered after the detectives took him out of the investigation room and put him into a bullpen.<sup>8</sup> Mr. Childs also testified that the detectives kept telling him that his co-defendant said that Childs did things, and that Mr. Childs "just switched everything they told me around, because I was drunk and I was tired, and I wanted to get out of there." When asked on cross why he switched everything around, Mr. Childs responded "Because I was tired. They was slapping on me. I had been up all night. They wouldn't let me rest. I'm drunk. I fell out at my house before they came and got me."<sup>9</sup>

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<sup>2</sup> See Transcript of June 20, 1994 Hearing on Motion to Suppress, at 15 to 17 (Childs describing the slapping) (Thomas Childs Transcript of Hearing on Motion to Suppress.pdf)(TIRC-Compiled ROP 50-52).

<sup>3</sup> See generally *id.*; see also EXHIBIT 1: Childs' Written Motion to Suppress

<sup>4</sup> See Transcript of June 20, 1994 Hearing on Motion to Suppress at 6 to 10 (TIRC-Compiled ROP 41-45).

<sup>5</sup> See *id.* at 15 (TIRC-Compiled ROP 50).

<sup>6</sup> See *id.*

<sup>7</sup> See *id.*

<sup>8</sup> See *id.* at 15 to 16 (TIRC-Compiled ROP 50-51).

<sup>9</sup> See *id.* at 17 (TIRC-Compiled ROP 52).

Mr. Childs did not raise any allegations about the slapping in his appeal of his conviction, but did raise it in his first *pro se* post-conviction petition where he accused only Detective Halloran, not Boudreau.

## II. Case Proceedings, Case No. 92-CR-27295 (Judge Daniel Locallo)

### a. Bond Hearings

In interviews conducted in connection with his TIRC claim, Mr. Childs claimed that he informed the judge at bond court of the slapping.<sup>10</sup> However, the bond court transcripts obtained where Mr. Childs appeared before Judge Marcus Salone on November 15, 1992 and Judge Gil Grossi on November 16, 1992 do not reflect that.<sup>11</sup>

### b. Suppression Hearing

Judge Locallo, noting that while Mr. Childs indicated through his testimony that Detective Halloran both verbally and physically abused him, denied Mr. Childs' motion to suppress on the ground that he found the testimony of Officer Thomas and Detective Halloran to be more credible than Mr. Childs' testimony.<sup>12</sup>

#### i. Thomas Childs' Suppression Hearing Testimony

Mr. Childs testified that on November 13, 1992 he had consumed two pints of alcohol and some beer at a friend's home before returning at about 10:00 or 10:15 p.m. to 4422 1/2 Drexel where he lived with his girlfriend.<sup>13</sup> Mr. Childs testified that he passed out and woke up to find himself in handcuffs. The police arrested him and took him straight to an investigation room at the police station.<sup>14</sup> When he spoke with Detectives Halloran and Boudreau he said he was intoxicated and that the detectives did not read him his *Miranda* rights.<sup>15</sup> Mr. Childs recalled being told he was under arrest for a murder but he claimed not to know anything about it. The detectives kept telling him that Mr. Mitchell claimed Mr. Childs was the murderer.<sup>16</sup> Mr. Childs testified that

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<sup>10</sup> Hear EXHIBITS 2 and 3, Audio Recordings of July 25, 2013 and September 21, 2018 TIRC interviews with Childs.

<sup>11</sup> See generally Bond Court Proceeding of November 15, 1992 (Thomas Childs Bond Court Proceeding (November 15, 1992).pdf) (TIRC-Compiled ROP 16); Bond Court Proceeding of November 16, 1992 (Thomas Childs Bond Court Proceeding (November 16, 1992).pdf) (TIRC-Compiled ROP 22).

<sup>12</sup> See Transcript of Hearing on Motion to Suppress, at 47 to 48 (Thomas Childs Transcript of Hearing on Motion to Suppress.pdf)(TIRC-Compiled ROP 82-83).

<sup>13</sup> See *id.* at 5 to 6 (TIRC-Compiled ROP 40-41).

<sup>14</sup> See *id.* at 5 to 6 (TIRC-Compiled ROP 40-41).

<sup>15</sup> See *id.* at 8 (TIRC-Compiled ROP 43).

<sup>16</sup> See *id.* at 9 (TIRC-Compiled ROP 44).

because he was tired and wanted to rest, he just started switching around what the detectives were saying (*i.e.*, saying that all of Mr. Mitchell's accusations applied to Mr. Mitchell, not Mr. Childs).<sup>17</sup>

Mr. Childs testified that four hours after being taken into custody, when the detectives put him in the bullpen, they offered him food for the first time.<sup>18</sup> Under cross-examination, Mr. Childs identified his signature in multiple places on the written confession.<sup>19</sup> He also testified that the detectives were "slapping [him] a few times, the usual thing they do to people that they investigate"<sup>20</sup> and that he gave the detectives his statement where he switched around everything that Mr. Mitchell alleged he had done to say that Mr. Mitchell had done those things because he was tired, because the detectives were slapping on him and because he had been up all night.<sup>21</sup> He also testified that he had never mentioned the slapping before his cross examination.<sup>22</sup>

ii. Officer Curtis Thomas' Suppression Hearing Testimony

Officer Curtis Thomas testified that on November 13, 1992 around 10:30 p.m., he arrested Mr. Childs at 4422 1/2 South Drexel, the home where Mr. Childs lived with his girlfriend.<sup>23</sup> Officer Thomas found Mr. Childs asleep on the floor of the apartment, handcuffed him, and read him his *Miranda* rights.<sup>24</sup> Officer Thomas testified that he did not smell the odor of alcohol on Mr. Childs, that Mr. Childs' speech was not slurred, and that Mr. Childs did not have any difficulty walking or turning to get into the car.<sup>25</sup> The cross-examination of Officer Thomas mainly focused on Mr. Childs' level of intoxication at the time of his arrest.<sup>26</sup>

iii. Detective John Halloran's Suppression Hearing Testimony

Detective Halloran testified that at approximately 12:01 a.m. on November 14, 1992 he and Detective Boudreau introduced themselves to Mr. Childs in an interview room at the Area 1 Violent Crimes police station.<sup>27</sup> Detective Halloran testified that he read Mr. Childs his *Miranda*

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<sup>17</sup> *See id.*

<sup>18</sup> *See id.* at 9 to 10 (TIRC-Compiled ROP 44-45).

<sup>19</sup> *See id.* at 12 to 14 (TIRC-Compiled ROP 47-49).

<sup>20</sup> *See id.* at 15 (TIRC-Compiled ROP 50).

<sup>21</sup> *See id.* at 16 to 17 (TIRC-Compiled ROP 51-52).

<sup>22</sup> *See id.* at 15 to 16 (TIRC-Compiled ROP 50-51).

<sup>23</sup> *See id.* at 19 to 20 (TIRC-Compiled ROP 54-55).

<sup>24</sup> *See id.* at 21 to 23 (TIRC-Compiled ROP 56-58).

<sup>25</sup> *See id.* at 24 (TIRC-Compiled ROP 59).

<sup>26</sup> *See id.* at 25 to 29 (TIRC-Compiled ROP 60-64).

<sup>27</sup> *See id.* at 30 to 31 (TIRC-Compiled ROP 65-66).

rights and that Mr. Childs responded that he understood those rights.<sup>28</sup> Detective Halloran testified that Mr. Childs was not handcuffed during their hour-long interview, that he did not strike Childs, and that he saw no one else including Detective Boudreau hit Mr. Childs.<sup>29</sup> Detective Halloran also testified that Mr. Childs did not appear to be intoxicated during the interview.<sup>30</sup> At approximately 5:00 a.m., he and ASA Clancy conducted a second interview with Mr. Childs. ASA Clancy took notes comprising Mr. Childs' statement in Mr. Childs' presence and Mr. Childs signed each page of the statement.<sup>31</sup> Under cross-examination, Detective Halloran testified that he had informed Mr. Childs during his interview that Mr. Mitchell had been arrested and had made a statement, but that he did not inform Mr. Childs of the contents of Mr. Mitchell's statement. He also told Mr. Childs they had spoken to other witnesses in the building at the time of the murder.<sup>32</sup> Detective Halloran said that he provided Mr. Childs with soda throughout the evening.<sup>33</sup>

iv. Mr. Childs' Attorney's Argument on Motion to Suppress

Mr. Childs' attorney, Gary Stanton, did not raise Mr. Childs' slapping allegations at all in arguing the motion to suppress. His entire argument focused on the alleged intoxication.<sup>34</sup>

c. **Trial**

i. ASA Clancy's Trial Testimony

ASA Clancy testified that he and Detective Halloran discussed the homicide of Mr. Wright with Mr. Childs in an interview room at Area 1 at approximately 5:00 a.m. on November 14, 1992. He advised Mr. Childs of his *Miranda* rights, and after 45 minutes to an hour Mr. Childs agreed to have his statements put in writing. ASA Clancy asked Mr. Childs at 6:00 a.m. how he had been treated by police and Mr. Childs said he had been treated fine. ASA Clancy then, in Mr. Childs' presence, prepared a document recording Mr. Childs' admissions in writing. ASA Clancy testified that he read the statement to Mr. Childs and made some changes including an insertion. Detective

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<sup>28</sup> *See id.* at 31 to 33 (TIRC-Compiled ROP 66-68).

<sup>29</sup> *See id.* at 33 to 34 (TIRC-Compiled ROP 68-69).

<sup>30</sup> *See id.* at 34 (TIRC-Compiled ROP 69).

<sup>31</sup> *See id.* at 34 to 35 (TIRC-Compiled ROP 69-70).

<sup>32</sup> *See id.* at 37 to 38 (TIRC-Compiled ROP 72-73).

<sup>33</sup> *See id.* at 40 (TIRC-Compiled ROP 75).

<sup>34</sup> *See id.* at 42 to 44 (TIRC-Compiled ROP 77-79).

Halloran, ASA Clancy, and Mr. Childs each initialed the corrections. ASA Clancy next photographed Mr. Childs.<sup>35</sup>

Mr. Childs' statement was read into evidence at trial.<sup>36</sup> It includes these admissions: (i) after Mr. Wright offered to sell cocaine to him and Mr. Mitchell, they made plans to rob Mr. Wright; (ii) Mr. Childs went to the first floor of the building to get a baseball bat, returned to the third floor, and gave the bat to Mr. Mitchell, who used it to hit Mr. Wright in the head a bunch of times; (iii) Mr. Childs saw blood on the bat and then went outside with Mr. Mitchell to hide it; (iv) Mr. Mitchell later broke down and told Mr. Mitchell's mother and brother what had happened upstairs; and (v) Mr. Childs loaned Mr. Mitchell purple pants and shirt with a "Michigan" logo, which is why they had blood on them.

ii. Thomas Childs' Trial Testimony

Mr. Childs' counsel limited Mr. Childs' testimony on direct to his level of intoxication at the time of arrest, stating that "had we wanted to question [Mr. Childs'] statement or get into it further, I would have asked Mr. Childs regarding that statement. We decided not to based on our own purposes and only put him on for the limited purpose of what his condition was when he was taken to the police station."<sup>37</sup>

Under cross-examination, Mr. Childs testified that he signed the statement ASA Clancy wrote, and he agreed that he appeared in the photograph ASA Clancy took at the time.<sup>38</sup> Mr. Childs also identified his signature and initials appearing in several places on the written statement and on the back of the photograph.<sup>39</sup>

### III. Post-Conviction Proceedings

Mr. Childs moved for a new trial claiming the court erred in refusing to suppress his statement, the state failed to prove guilt beyond a reasonable doubt, that the evidence was insufficient to prove Mr. Childs accountable for his co-defendant's actions, and on due process and equal protection grounds. The motion was denied.<sup>40</sup>

On appeal, Mr. Childs' did not challenge the suppression ruling or allege that he had been physically abused. The appeal challenged only his sentence and whether the court's consideration

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<sup>35</sup> See Thomas Childs Trial Transcript at K-10 to K-11 (TIRC-Compiled ROP 1161-1162); see also EXHIBIT 4: Thomas Childs Photograph.

<sup>36</sup> See EXHIBIT 5: Thomas Childs' November 14, 1992 statement to police.

<sup>37</sup> See Thomas Childs Trial Transcript at K-40 to K-41 (TIRC-Compiled ROP 1191-1192).

<sup>38</sup> See *id.* at K-42 to K-43 (TIRC-Compiled ROP 1193-1194).

<sup>39</sup> See *id.* at K-44 to K-47 (TIRC-Compiled ROP 1195-1198).

<sup>40</sup> See EXHIBIT 6: Thomas Childs Motion for a New Trial.

of statements by a co-defendant denied him a fair trial.<sup>41</sup> The appellate court affirmed, and the Illinois Supreme Court denied Mr. Childs' petition for leave to appeal.<sup>42</sup>

Mr. Childs next filed *pro se* petitions for post-conviction relief in 1998, 2001, and 2003, all of which were dismissed.<sup>43</sup> In the first petition, Mr. Childs did not challenge the suppression ruling but he argued he had been slapped by Halloran: “[Detective Halloran] handcuffs me to the chair [and] slap’s [sic] me [and] tells me [I] better tell him the truth. I was drunk, emotional, physical [and] psychologically drained from the slapping [and] yelling. That [sic] [I] reversed everything Detective Halloran said that was in the Statement my Co-defendant made against me, Just to get him to leave me alone.”<sup>44</sup> Mr. Childs' second and third petitions also did not challenge the suppression ruling and neither repeated the slapping allegations.<sup>45</sup>

On December 5, 2003, Mr. Childs moved to dismiss the indictment which was denied by the trial court and dismissed for lack of jurisdiction by the appellate court.<sup>46</sup> The Illinois Supreme Court declined to hear a further appeal and on October 3, 2005 the U.S. Supreme Court denied his writ of certiorari.<sup>47</sup>

Mr. Childs filed a *pro se* state habeas corpus petition on November 30, 2006 based on various grounds, including that he was denied a fair trial, but it did not allege physical abuse. It was denied. His federal habeas petition was also denied. Finally, on September 12, 2010, his *pro se* motion to vacate and void the judgment against him was dismissed by the U.S. district court.<sup>48</sup>

#### **IV. TIRC Investigation**

The Commission received Mr. Childs' claim on June 22, 2011.<sup>49</sup> Among other things, his claim alleges that Detectives Halloran and Boudreau slapped him until he agreed to confess to murdering Mr. Wright.

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<sup>41</sup> See EXHIBIT 7: *People of the State of Illinois, Plaintiff-Appellee, v. Thomas Childs, Defendant-Appellant*, 1996 WL 33651869 (Ill.App. 1 Dist.), IV (Thomas Childs Brief and Appendix for Defendant-Appellant.pdf).

<sup>42</sup> See *People v. Childs*, 291 Ill. App. 3d 1114, 716 N.E.2d 876 (1997); *People v. Childs*, 175 Ill. 2d 534, 689 N.E.2d 1142 (1997).

<sup>43</sup> See *U.S. ex rel. Childs v. Gaetz*, No. 09 C 709, 2010 WL 55653, at \*2 (N.D. Ill. Jan. 5, 2010) (general description of Childs' post-conviction proceedings).

<sup>44</sup> See EXHIBIT 8: April 1998 Childs PC Petition.

<sup>45</sup> See EXHIBITS 9 and 10: Childs' 2001 and 2003 PC Petitions.

<sup>46</sup> See *U.S. ex rel. Childs v. Gaetz*, No. 09 C 709, 2010 WL 55653, at \*1 (N.D. Ill. Jan. 5, 2010).

<sup>47</sup> See *id.*

<sup>48</sup> See *id.*

<sup>49</sup> See EXHIBIT 11, Thomas Childs Claim Form.

On July 25, 2013, counsel for TIRC interviewed Mr. Childs. Mr. Childs stated that Detectives Boudreau and Halloran were partners and, while playing chess in the interview room, they took turns slapping him. Mr. Childs stated that he failed to include mention of Detective Boudreau in his first post-conviction petition in 1998 because he could not remember his name, but when he went through his transcripts he found Detective Boudreau's name, which is why he included it in his TIRC claim form. Mr. Childs stated that the detectives slapped him with an open hand 30-40 times, giving him a red face and a "busted" or cut lip. He also said that he had told this story both to his trial lawyer and the judge at his bond court hearing.

TIRC counsel interviewed Mr. Childs a second time on September 21, 2018. During the second interview, Mr. Childs identified Detective Halloran and Boudreau as the detectives who slapped him and stated that the detectives took turns playing chess on the computer and slapping him. Mr. Childs stated that he was somewhat intoxicated at the time and was laughing at the detectives for playing chess and slapping him at the same time. Mr. Childs stated that the slapping resulted in a red face with slight bruising and a small cut in the middle of his lower lip which did not bleed. Mr. Childs stated that after he was questioned by Detectives Halloran and Boudreau, he was put into the bullpen where he was handcuffed to the wall. When he returned to the interview room, Mr. Childs stated that he did not discuss the slapping with the ASA, but said that the ASA would have been able to see the injuries to his face from the slapping. Mr. Childs did not recall being photographed. Mr. Childs stated that he told his counsel who represented him at bond court about the slapping when the lawyer came into the bullpen to talk to him, and that he believed that was on Sunday, November 15, 1992 prior to his bond hearing later that day. Mr. Childs also stated that he tried to tell the judge at bond court about the slapping but that the judge told him to be quiet. Mr. Childs stated that he also informed his trial counsel, Gary Stanton, of the slapping and that his family members were also aware of the slapping. When asked about the discrepancy between his current recollection and his testimony at the suppression hearing where he agreed he had not told anyone about the slapping until that time, Mr. Childs stated that he only agreed to a contradictory story at his suppression hearing because he did not really think it would bear on the outcome of the charges against him.

TIRC also interviewed Mr. Childs' trial attorney, Gary Stanton, on March 11, 2020.<sup>50</sup> Mr. Stanton generally did not recall Mr. Childs' case and did not remember whether physical abuse or torture had been an issue. When informed by TIRC that he had filed a written motion to suppress Mr. Childs' statement that emphasized Mr. Childs' intoxication and that did not include the allegations of physical abuse and that at the hearing on the motion to suppress that Mr. Stanton had asked no questions of Mr. Childs in direct examination regarding the physical abuse, Mr. Stanton stated that it was unlikely that Mr. Childs had informed him of the physical abuse prior to the hearing as he routinely filed motions to suppress or advanced allegations of abuse at trial if defendants alleged physical abuse. Mr. Stanton recalled multiple other cases where he had advanced motions to suppress or raised in arguments at trial allegations of physical abuse.<sup>51</sup>

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<sup>50</sup> See EXHIBIT 12: 2020.3.11 Report of STANTON INTERVIEW.

<sup>51</sup> See *id.*

After reviewing the suppression hearing transcript and other documents, Mr. Stanton spoke again with TIRC on April 8, 2020. Although the documents did not refresh his memory of the case, he remained confident in his assessment that Childs had not informed him of any abuse allegation prior to when Childs made them during cross-examination at the suppression hearing. Of the allegation made at the hearing itself, Mr. Stanton remarked, “It sounded to me like it was a throw-in.”<sup>52</sup>

## V. Pattern and Practice Evidence/Credibility Considerations

Separately, Mr. Childs’ co-defendant, Mr. Mitchell, also made abuse allegations in his motion to suppress his statement. Mr. Mitchell alleged that his statements made to police were involuntary because they were obtained as a result of psychological, mental and physical coercion.<sup>53</sup> Specifically, Mr. Mitchell alleged that the detectives that interviewed him, which included Detectives Halloran and Boudreau, used a “good cop/bad cop” routine, where the “bad cop” pushed him in his chest, slapped him in the head and forehead areas, shoved him down to the floor, and threatened to do the same to him as what was done to Mr. Wright.<sup>54</sup> Detective Halloran testified that neither he nor any other police officers pushed, slapped, or shoved Mr. Mitchell.<sup>55</sup>

A review of TIRC records indicates that Detectives Halloran and Boudreau have had over 50 formal complaints filed against them.<sup>56</sup> Examples of complaints with violent or psychological components include the following allegations:

### John Halloran

- Placed a phonebook over the suspect’s stomach and then struck the suspect’s stomach with a flashlight, placed a plastic garbage bag over his head, and threatened to arrest his girlfriend and take away her children if he didn’t confess during an interrogation;<sup>57</sup>
- Verbally threatened and choked a suspect and slapped another suspect several times to secure a confession;<sup>58</sup>

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<sup>52</sup> See EXHIBIT 16: Report of April 8, 2020 interview with Gary Stanton.

<sup>53</sup> See EXHIBIT 13: Tedd Mitchell Written Motion to Suppress.

<sup>54</sup> See *id.*;

<sup>55</sup> See: Halloran testimony at Hearing on Tedd Mitchell’s Motion to Suppress B-3 to B-17 (TIRC-Compiled ROP 200-214).

<sup>56</sup> See EXHIBIT 14, Summary of Complaints against Det. Kenneth Boudreau (27 complaints); see also EXHIBIT 15, Summary of Complaints against Det. John Halloran (31 complaints).

<sup>57</sup> See EXHIBIT 15, Summary of Complaints against Det. John Halloran (CR #251436).

<sup>58</sup> See *id.* (CR #203754, 249042).

- Hit, choked, and threatened the family of a suspect during an interrogation;<sup>59</sup>
- Punched and kicked a suspect during an interrogation in order to secure a confession;<sup>60</sup> and
- Slapped a suspect, pulled his braids, punched his head and pulled his fingers back during an interrogation.<sup>61</sup>

### **Kenneth Boudreau**

- Beat a suspect during an interrogation until he provided a confession;<sup>62</sup>
- Verbally threatened and choked a suspect and slapped another suspect several times to secure a confession; <sup>63</sup> and
- Slapped a suspect and punched him in the ribs during an interrogation.<sup>64</sup> Another suspect in the same case confessed to Detective Boudreau to a rape and murder, only to later have been determined to have been jailed at the time of the crime.<sup>65</sup>

Illinois courts have also observed that Detective Halloran has numerous allegations of torture pending against him in litigation, involving claims that he physically coerced confessions.<sup>66</sup> In addition, allegations of torture and violent conduct by Detective Boudreau to coerce confessions

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<sup>59</sup> *See id.* (CR #208498).

<sup>60</sup> *See id.* (Flewellen v. City of Chicago, et al., 00-C-2709).

<sup>61</sup> *See id.* (IPRA #1009053).

<sup>62</sup> *See* EXHIBIT 14, Summary of Complaints against Det. Kenneth Boudreau (Complaint of Anthony Jakes).

<sup>63</sup> *See id.* (CR #203754).

<sup>64</sup> *See id.* (Complaint of Harold Hill).

<sup>65</sup> *See id.* (Complaint of Harold Hill, discussing Peter Williams' false confession).

<sup>66</sup> *See, e.g., People v. Pittman*, 2015 IL App (1st) 132727-U, ¶ 22 (*citing People v. Tyler*, 2015 IL App (1st) 123470, ¶ 48 and *People v. Weathers*, 2015 IL App (1st) 133264, ¶ 14).

have been well-documented in the media.<sup>67</sup> Further, there are examples of allegations of torture of both detectives acting together to coerce confessions.<sup>68</sup>

### **Standard of Decision**

Section 40(d) of the Act authorizes the Commission to investigate and report on torture claims. *See* 775 ILCS 40/40(d).

“‘Claim of torture’ means a claim on behalf of a living person convicted of a felony in Illinois asserting that he was tortured into confessing to the crime for which the person was convicted and the tortured confession was used to obtain the conviction and for which there is *some credible evidence* related to allegations of torture occurring within a county of more than 3,000,000 inhabitants.” 775 ILCS 40/5(1) (emphasis added).

“‘Torture’ means any act by which *severe pain or suffering*, whether physical or mental, is intentionally inflicted on a person for the purpose of obtaining from that person a confession to a crime.” 775 ILCS 40/5(1) (emphasis added).

If five or more Commissioners conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the case shall be referred to the Chief Judge of the Circuit Court of Cook County. If fewer than five Commissioners conclude by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review, the Commission shall conclude there is insufficient evidence of torture to merit judicial review.<sup>69</sup>

The General Assembly did not ask the Commission to conduct full, adversarial, evidentiary hearings concerning the likelihood of torture in any case, or even to make a final findings of fact regarding whether torture occurred. That remains the role of the courts. Instead, the Commission has interpreted Section 45(c), through its administrative rules, as requiring it only to determine whether there is sufficient evidence of torture to merit judicial review.<sup>70</sup>

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<sup>67</sup> *See, e.g.,* Megan Crepeau, *Ex-Chicago Police Detective Takes Witness Stand, Denies Ever Beating a Suspect*, Chicago Tribune, May 14, 2018, <https://www.chicagotribune.com/news/breaking/ct-met-ex-police-detective-coerced-confessions-20180514-story.html>; Maurice Possley, Steve Mills, and Ken Armstrong, *Veteran Detective’s Murder Cases Unravel*, Chicago Tribune, December 17, 2001, <https://www.chicagotribune.com/investigations/chi-011217confession-story.html>.

<sup>68</sup> *See, e.g.,* Steve Mills, *Rare Legal Settlements Demand Officers Pay Too*, Chicago Tribune, April 15, 2012, <https://www.chicagotribune.com/news/ct-xpm-2012-04-15-ct-met-settlement-cops-pay-20120415-story.html>; EXHIBIT 14, Summary of Complaints against Det. Kenneth Boudreau (Complaint of Harold Hill) and (CR #203754).

<sup>69</sup> *See* 775 ILCS 40/45(c). To dismiss a claim, a minimum of four votes to dismiss are required. *See* 2 Ill. Adm. Code 3500.385(e).

<sup>70</sup> *See* 2 Ill. Adm. Code 3500.385(b)(1). In general, the approach the Commission has taken is akin to the concept of “probable cause.” That is, there must be enough evidence that the claim should get a hearing in court. *See* FAQ No. 8, <https://www.illinois.gov/tirc/Pages/FAQs.aspx/>. Note that the Commission is free under its rules, where it chooses, to find that any fact occurred, more likely than not. 2 Ill. Adm. Code 3500.385(b)(2). The Illinois Appellate Court has similarly framed the Commission’s duties: “[T]he Commission is asked to determine whether

## Conclusions

Mr. Childs alleges that Detectives Boudreau and Halloran slapped him before Mr. Childs agreed to sign a written statement confessing his involvement in the murder of Mr. Wright. Mr. Childs' description of the duration of the slapping has varied over time (ranging from a few times to 30-40 times). In addition, Mr. Childs has made no other allegations (for example, that he was not offered food or water or access to a restroom) that could be considered, along with the slapping allegations, as amplifying the alleged coercion.

Assuming, *arguendo*, that the conduct alleged constitutes a claim of torture as defined in the Act, there is not sufficient evidence of the torture to merit judicial review. The credibility of Mr. Childs' physical abuse claims could reasonably be questioned. Although he raised the issue early in his case, when he was cross-examined at the suppression hearing, and then raised it again in his first post-conviction petition, he did not raise it in his motion to suppress or upon direct examination on the witness stand in the suppression hearing. Despite multiple other opportunities for him or his counsel to raise them, they were silent. While Mr. Childs' descriptions of the slapping have been relatively consistent, we could not corroborate his claim that he told others about it. His counsel did not mention the alleged slapping in Mr. Childs' suppression motion or at trial (which is something his counsel recalled he routinely did in other cases). Instead, his counsel focused solely on Mr. Childs' level of intoxication at the time of his arrest and while he was in police custody. Contrary to Mr. Childs' recollection, the bond court hearing transcripts do not show that Mr. Childs tried to tell the judge he had been slapped while in custody. Also contrary to Mr. Childs' recollection, there is no physical evidence that he was slapped. The photograph taken of him at the time of the alleged abuse does not reflect any physical damage, although Childs maintains his lip was cut.

Both Detective Boudreau and Detective Halloran have lengthy, consistent, and substantiated histories of complaints against them. Further, many of the complaints against the detectives were for behavior that is similar to the kind alleged by Mr. Childs. Thus, the pattern and practice evidence weighs in favor of Mr. Childs' claim. The testimony by police that Mr. Childs was found asleep on the floor of his apartment approximately 15 minutes after Childs arrived home -- when a bed was readily available -- also increases the likelihood that Mr. Childs' testimony about being intoxicated when he was interrogated was true, and the police's contention that he was sober was false. That raises an issue regarding the detectives' and police's credibility.

However, the Commission's interviews with Mr. Childs' attorney Gary Stanton and Stanton's near-certainty that Childs hadn't raised any torture allegations with him before the suppression hearing, makes Childs' late-raised allegations on the stand extremely suspect. Gary Stanton had a history of not only raising abuse allegations in pre-trial situations, but winning those motions. The fact that Stanton did not raise them, and chose not to pursue them at trial even after

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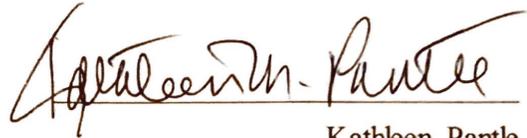
there is enough evidence of torture to merit judicial review, the circuit court is asked to determine whether defendant has been tortured. These are two different issues determined by two different entities. \* \* \* What the Commission did was analogous to finding that a postconviction petition could advance to the third stage." People v. Christian, 2016 IL App (1st) 140030, ¶ 95, 98.

Childs alleged them at the motion to suppress, indicate Stanton himself had severe doubts about their veracity and that he viewed them then, as he does now, as a “throw-in.”

The Commission finds, that even assuming, without deciding, that the allegations of slapping are severe enough to constitute a claim of torture, the evidence of torture in this record is insufficient under the standard to merit judicial review. Therefore, the Commission declines to refer Mr. Childs’ claim for judicial review.

The Commission denies the claim and instructs its Executive Director to notify Mr. Childs of the denial and of his right to judicial review under the Illinois Administrative Review Law, as set forth in 775 ILCS 40/55.<sup>71</sup>

Date: April 22, 2020



Kathleen Pantle

Alternate Chair

Illinois Torture Inquiry and

Relief Commission

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<sup>71</sup> See 775 ILCS 40/55(a). Although this determination does not concern a “contested case” as defined in Section 1-30 of the Illinois Administrative Procedures Act (5 ILCS 100/1-30) because no opportunity for a hearing is required under the Act (*see* 775 ILCS 40/45(a)), the Commission notes that the rules of the Commission do not require any motion or request for reconsideration before appeal under the Administrative Review Law, and notes that the service address of interested parties is listed in the Notice of Filing certificate that accompanies the filing of this determination with the Court.