

BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:
Claim of Earl Wilson

TIRC Claim No. [2019.606-W]
(Relates to Cook County Circuit
Court Case No. 86-CR-16643)

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Admin. Code 3500.385(b), the Commission concludes that, by a preponderance of the evidence, there is sufficient evidence of torture to merit judicial review. The Commission refers this claim to the Chief Judge of the Circuit Court of Cook County and requests assignment to a trial judge for consideration. *See* 775 ILCS 40/50. This decision is based upon the Factual Findings and Conclusions set forth below, and the supporting record attached.

EXECUTIVE SUMMARY

Claimant Earl Wilson (“Wilson”) was convicted of conspiracy and sentenced to a term of natural life for the November 18, 1986, attempted armed robbery and murder of Willie “Flukey” Stokes (“Stokes”) and Ronald Johnson (“Johnson”). Wilson alleges that he was mentally and psychologically tortured into confessing to those crimes.

Factors supporting the Wilson’s allegations of Torture include:

- Wilson’s claim of police abuse and coerced confession were consistent from pre-trial motion, through trial and post-conviction.
- There is a large body of evidence that the police officers involved, particularly Detectives Joseph Danzl (“Danzl”) and Michael Baker (“Baker”), had a history of allegations of abuse towards detainees.
- Wilson testified that he feared for his life and the lives of his family. This fear is highly plausible given that Wilson was intimately aware of Stokes’ reputation as a dangerous individual, having served as his bodyguard for approximately three months before the murder.
- Wilson claims that he did not sleep through the night of November 24, 1986 and may have been sleep deprived when he signed a confession on November 25, 1986.
- The duration of Wilson’s time in custody before giving a written statement was approximately 24 hours, a lengthy period that could well be considered coercive.
- Wilson alleges that he was strip-searched for a recording device or ‘wire’ by Lieutenant Phil Cline (“Cline”) prior to being interrogated, which supports an inference that Cline did not want the following interrogation recorded.

Factors detracting from the Wilson's allegations of torture include:

- Wilson never claimed he was physically tortured by the police. Therefore, Wilson has no physical evidence of torture in medical records, photographs or other physical records. Several other cases involving sleep deprivation and other psychological torture also involved physical harm or threats of physical harm.¹
- Wilson was not intoxicated at the time of the interview and would not have had a heightened sense of paranoia or concern at the time of the interview.
- Wilson had no history of being beaten or harmed by the police.
- Wilson's credibility is suspect, having changed some aspects of his torture claims over time. For example, when interviewed by attorneys from Kirkland & Ellis LLP ("K&E"), he stated that was only shown pictures of the victims of the murder, contradicting his statements during trial that he was shown pictures of dead children also.

The Commission finds that the fact patterns present in Wilson's case are sufficient to support a claim of torture and warrant judicial review. We note, however, that the determination was a close case.

We determined that the alleged threat to inform Stokes' associates of Wilson's alleged involvement in Stokes' murder constituted a threat by the state to cause imminent harm or death to Wilson or his family, and could well constitute torture. Combined with the length of interrogation, the history of many of the involved police officers, and Wilson's generally consistent story outweighs the Wilson's credibility issues and the lack of physical abuse, and warrants review by a court.

FACTUAL FINDINGS

I. The Crime

On November 18, 1986, just after midnight, Stokes, and his driver, Johnson, were shot and killed while sitting in Stokes' car outside of 7941 South Ellis Street in Chicago, Illinois. Diane Miller, who was sitting in the back seat of Stokes' car at the time of the shooting, ducked down after hearing shots and was not injured. Officers Maryann Markham and Elmer Atkinson (the "Responding Officers") responded to a 911 call of a man shot at 7941 South Ellis Street and upon arrival at the address, found Earl Wilson waving a handgun in the street.²

Wilson told the Responding Officers that he was Stokes' bodyguard and that he had been following Stokes in a separate car over the course of the evening prior to the shooting.³ Wilson stated that earlier that evening, Stokes had contacted him to serve as Stokes' bodyguard on the night of November 17, 1986.⁴ Wilson claimed that he met Stokes, Johnson, and Miller to watch a

¹ See e.g. Ex. 1, TIRC Claim No. 2014.196-J (2014) (Willie Johnson).

² Ex. 2, Case Report, Chicago Police Department ("CPD"), dated November 18, 1986.

³ *Id.*

⁴ Ex. 3, Supplementary Report, CPD, dated November 21, 1986 at 5.

double feature movie at a theater and that he followed Stokes, Johnson, and Miller in a separate car while they stopped at a Chili's, Chatham's Food Store, and Trotters Liquor Store.⁵ They then all proceeded to Miller's home at 7941 South Ellis Street, where they called into the residence to gain entry.⁶ Wilson told the Responding Officers that he then saw two to three men armed with guns approach Stokes' car from different directions and start shooting into Stokes' car.⁷ Wilson stated that he exited his car and started shooting at the assailants.⁸ Wilson stated that the men fled and he subsequently heard a car alarm go off.⁹

Wilson was initially taken to Area Two Violent Crimes ("Area 2") by Detective Daniel McWeeny for further questioning. Wilson was initially charged with unlawful use of a weapon and discharging a weapon within the City of Chicago.¹⁰

II. The Police Investigation

We note that the Area Investigative File could not be located by Chicago Bureau of Detectives on January 26, 2021.¹¹ The Permanent Retention File includes the report of Detectives Daniel McWeeny, Charles Grunhardt, David Dioguardi ("Dioguardi"), and James Lotito.¹² The following paragraphs detail the police investigation as presented in the Permanent Retention File.

On the night of the shooting and in subsequent police investigations, several other witnesses corroborated Wilson's account of the crime. Shirley Allen, who had been in the residence at 7941 South Ellis Street at the time of the incident, told police that she received a call from Stokes to open the door. After opening the door, she saw the offenders approach Stokes' car and begin shooting. She subsequently shut the door and took cover. Cheryl Coleman and Liza Green both stated that they saw the offenders emerge from different directions, approach the vehicle and fire into the car. They took cover and then observed the men flee and subsequently heard a car alarm. Mary and Tony Hill and Donald Stewart were each home at the time of the incident and heard several shots, looked out the window and saw the men flee the scene.¹³

Wilson was given a polygraph at Area Two on November 18, 1986 at 11 am. The results of the polygraph were "Not truthful - knowledge."¹⁴ After the shooting, Chicago Detectives of Area Two reported receiving two anonymous telephone calls (from the same anonymous caller) on the evenings of each of November 18 and 19, 1986, during which the caller stated that he overheard on his radio scanner car telephone discussions between two individuals.¹⁵ The

⁵ *Id.*

⁶ *Id.*

⁷ Ex. 2, Case Report, CPD, dated November 18, 1986.

⁸ *Id.*

⁹ Ex. 3, Supplementary Report, CPD, dated November 21, 1986 at 6.

¹⁰ Ex. 2, Case Report, CPD, dated November 18, 1986.

¹¹ Ex. 4, Approved Negative, Chief of Bureau of Detectives Brendan D. Deenihan, dated January 26, 2021.

¹² Ex. 3, Supplementary Report, CPD, dated November 21, 1986 at 6.

¹³ Ex. 2 Case Report, CPD, dated November 18, 1986.

¹⁴ Ex. 5, Polygraph Examination Report, CPD, dated November 24, 1986.

¹⁵ *Id.*

anonymous caller stated that the individuals were describing one of the individual's driving patterns (which were consistent with the driving patterns of Stokes and Wilson on the night of the shooting), that one individual said, "after this thing goes down he had better get himself two bodyguards" and later conversations about "Flukey" and his driver being dead.¹⁶

Following the revelations from this anonymous caller, Sergeant Robert Fitzgibbons transported Wilson to Area Three Violent Crimes ("Area 3") for an interview, which took place at 3:35 pm on November 20, 1986. It should be noted that at the time of his interview, Wilson had been an informant for the State's Attorney's Office and Officer Robert O'Neill ("O'Neill"). During this interview, Wilson stated that he had met Stokes while he was employed at a roller rink about two months prior to the shooting and that Stokes had offered him employment as his bodyguard. Wilson recounted the events of the night of the shooting, which were largely consistent with the information he previously provided to police on the night of the incident. However, he provided more detail regarding the shooting itself than had been recorded in the police report on the night of the shooting. Wilson noted that three men had approached Stokes car, one from the passenger side, one from the front and one from the driver's side. Wilson stated that two of the subjects began firing and he exited his car and fired three shots, and the subjects fled. Wilson stated that he tried to call 911 on his car telephone and on Stokes' car telephone, but was unable to get through. He stated he yelled to the people who had begun to emerge from their homes to call 911. The police specifically asked if he had made any phone calls from his telephone call on the night of the shooting and Wilson stated he had called two girlfriends earlier in the evening on the car telephone, but that these calls occurred prior to the shooting. At this point the interview was terminated and Wilson left Area 3.¹⁷

On November 21, 1986, police obtained a subpoena for the phone records of the car telephones recovered from Wilson and Stokes' cars. Wilson's telephone records contradict his testimony that he only called two girlfriends; records showed multiple calls to Elliot Taylor ("Taylor"), a rival drug dealer to Stokes, on the evening of the homicide.¹⁸

On November 22, 1986, Wanda Pulling, Wilson's girlfriend, was interviewed at her residence. She recounted that on November 17, 1986, Wilson had been at her house and had received a phone call and had subsequently left her apartment to meet Stokes. She received two subsequent phone calls that evening from Wilson - one from the theater during which they discussed the movie and another later call when Wilson called and sounded "excited" and recounted that Stokes had been shot and to call 911.¹⁹

On November 24, 1986, Wilson met at Area 3 with Lieutenant Cline, Detectives Danzl and Baker, Sergeant Fitzgibbons, and Officer O'Neill. Wilson was subsequently transported to Area Two by Cline and Officer O'Neill. He was further interviewed at Area Two after being advised of his Constitutional Rights. Wilson was then confronted with the telephone evidence that he had called Taylor that night from his car phone by Detectives Danzl and Baker. Wilson

¹⁶ *Id.*

¹⁷ *Id.*

¹⁸ *Id.*

¹⁹ Ex. 6, Supplementary Report, CPD, dated November 26, 1986 at 6.

continued to deny he made any telephone calls and stated that he didn't believe that such telephone records existed. Wilson was then given a bathroom break and was provided dinner.²⁰

Following this break, Lieutenant Cline, Sergeant Fitzgibbons, and Officer O'Neill again advised Wilson of this Constitutional rights and further questioned him about the use of his car phone. Wilson then admitted that he had used the car telephone to call Taylor prior to the shooting. Wilson stated that he had met with Taylor on November 14, 1986 to discuss setting Stokes up to be robbed. Wilson denied that he knew that Stokes would be killed in the attack. Wilson relayed that he had known Taylor for about 25 years and identified a photograph of Taylor.²¹

At approximately 11:45 pm on November 24, 1986, after again being advised of his Constitutional rights, Wilson was interviewed by Detectives John Solecki ("Solecki") and Dioguardi. Wilson stated that he had previously sold cocaine for Taylor and had subsequently asked Taylor to give him a car phone, which Taylor eventually did. During this portion of the interview, Wilson stated that when he met Taylor on November 14, 1986, Taylor told Wilson that a debt Wilson owed Taylor would be forgiven if he helped set up Stokes. Wilson stated that he and Taylor discussed how Wilson would be in contact with Taylor to discuss their movements. He also stated that he would fire shots over the heads of the perpetrators to make it look like Wilson hadn't been involved in the setup.²²

Wilson stated that on November 17, 1986, he had met Stokes, Miller and Johnson, as previously reported. Wilson stated that after leaving the theatre and restaurant, he had called Taylor to relay his and Stokes' various movements. Wilson stated that when they arrived at Miller's house, he expected the robbery to occur and further stated that when the men approached Stokes' car and began firing, he shot several shots over the men's heads.²³

On November 24, 1986, the police interviewed Billy Connelly, who was a part-time installer of car telephones. He stated that he delivered four mobile car telephones to J and H Management Co., which Taylor is associated with. The four telephone numbers for these car telephones were all in Taylor's name.²⁴

On the morning of November 25, 1986, ASA Michael O'Donnell took Wilson's written statement, which was consistent with the facts relayed to Detectives Solecki and Dioguardi during the interview. Wilson was subsequently charged with two counts of murder, two counts of felony murder and two counts of attempted armed robbery.

On August 11, 1987, Detectives Baker and Danzl interviewed Peggy Wilson, Wilson's estranged wife, who stated that she had several conversations with Wilson on the night of the shooting, one lasting approximately 30 minutes.²⁵

²⁰ *Id.* at 7.

²¹ *Id.*

²² *Id.* at 9.

²³ *Id.*

²⁴ *Id.*

²⁵ Ex. 7, Supplementary Report (Peggy Wilson Interview), CPD, dated August 11, 1987.

On November 8, 1989, Jefferson Cunningham was interviewed by the police and corroborated Wilson and Taylor's story. Although Cunningham was not directly involved in the robbery, murder, or setup of Stokes, he was familiar with the individuals involved and with the premeditated plan to set Stokes up. Cunningham told police that Wilson had been in communication with the shooters regarding Stokes' movements prior to the shooting. Cunningham further stated that he knew that Taylor had approached Wilson about setting up Stokes.²⁶

James Bracey was also interviewed by the police. He had been one of the shooters and stated that the three shooters had been in contact with Wilson regarding Stokes' movements on the night of the shooting.²⁷

III. Court Proceedings

A. Pre-Trial Proceedings

On August 4, 1987, Wilson's attorney made a pre-trial motion to suppress evidence, alleging the evidence was fruit of an illegal eavesdropping.²⁸ Wilson testified that when he was brought to Area 2, he was strip-searched by Lieutenant Cline and others, who were looking for a "wire" or recording device, but found nothing.²⁹ He then repeatedly requested assistance of counsel, but was denied.³⁰ Wilson further testified that Cline, Detective Danzl and other police detectives showed Wilson pictures of dead children during the interrogation process.³¹ Wilson also testified that police told him that if he cooperated with the police investigation and signed a confession, the police would protect his family.³² Wilson testified that Lieutenant Cline, Officer O'Neill, and Sergeant Fitzgibbons stated that his "life ain't gonna be worth nothing. This Elliot Taylor was going to have someone kill me and do something to my family. If he did not do it, Stokes' people was going to do it."³³

B. Trial Proceedings

Chicago Detectives and Cook County assistant state's attorneys consistently testified that Wilson was read his Miranda rights and that Wilson responded he understood these rights, that Wilson did not request an attorney at any time during the interrogation, that they did not strike or

²⁶ Ex. 8, Supplementary Report, CPD, dated November 25, 1990 at 4-5.

²⁷ *Id.* at 12.

²⁸ AA02-SUPP-APP CT # 88-105; TCROP at 0091-0167.

²⁹ AA02-SUPP-APP CT # 88-105 at 13-14; TCROP at 0103-0104.

³⁰ *Id.* at 15-17; TCROP at 0105-0107.

³¹ *Id.* at 18; TCROP at 0108.

³² *Id.*

³³ *Id.* at 28; TCROP at 0118.

abuse Wilson, nor that they told Wilson that he or his family would be harmed by the relatives, friends or associates of Stokes or the shooters.³⁴

Wilson testified during his trial that he repeatedly requested to call his lawyer, but was told by police that he would not be allowed to make a phone call to his lawyer until he signed a confession.³⁵ Wilson testified that after he was strip-searched, he was not read his Miranda rights.³⁶ Wilson testified police showed him pictures of dead children, and stated that that could happen to Wilson's children and family, and that Lieutenant Cline and other officers told him that they would provide Wilson and his family with police protection if Wilson cooperated by signing the confession.³⁷ Wilson testified he was questioned by the police from 2 p.m. on the 24th until 8 p.m. on the 25th of November, 1986.³⁸ Wilson testified that police officers did not strike him, nor did they threaten to physically harm Wilson themselves if he did not talk or cooperate.³⁹ Wilson testified that although he was left in a room by himself from 1 a.m. until 8 a.m. on the 25th of November, 1986, he struggled to sleep as police continued to come in and out of that room to question Wilson during that time.⁴⁰ Wilson testified that police told him that they were going to tell Stokes' associates that Wilson had organized Stokes' murder.⁴¹ Wilson signed a confession on November 25th, 1986 at 2:55 p.m., which stated he was not mistreated by the police.⁴² Wilson testified that police were intimating that the word would be out that he was a suspect or was charged with the death of the deceased and that he was working for the State's Attorney's office.⁴³

The state provided evidence to the jury resulting in Wilson's conviction, that on November 14, 1986 Wilson met with Taylor in the area of 50th and Aberdeen streets in Chicago where Wilson agreed to "set up" Stokes. On November 17, 1986, Wilson telephoned Taylor prior to beginning his work for Stokes that evening. On November 18, 1986 Wilson drove a Cadillac Illinois License No DU 4649 to various locations in Cook County Illinois while following Stokes. On November 18, 1986 Wilson used a mobile telephone, number 613-7504, to call another mobile telephone, number 613-9836, to communicate the whereabouts of Stokes to Taylor, including Stokes' final location at 79th and Ellis streets, where Stokes was shot by gunmen.⁴⁴

³⁴ A005-ROP AND CLR COMBINED-Vol 1 OF 3-APP Ct # 88-105 at 74-187; TCROP at 0257-0370.

³⁵ *Id.* at 38; TCROP at 0220.

³⁶ *Id.* at 40; TCROP at 0222.

³⁷ *Id.* at 42-43; TCROP at 0224-0225.

³⁸ *Id.* at 45; TCROP at 0227.

³⁹ *Id.* at 49-50; TCROP at 0231-0132.

⁴⁰ A006-ROP AND CLR COMBINED-Vol 2 OF 3-APP Ct # 88-105 at 1132-33; TCROP at 1319-1220.

⁴¹ A005-ROP AND CLR COMBINED-Vol 1 OF 3-APP Ct # 88-105 at 60; TCROP at 242.

⁴² A006-ROP AND CLR COMBINED-Vol 2 OF 3-APP Ct # 88-105 at 843; TCROP at 1030.

⁴³ *Id.* at 1075; TCROP at 1262.

⁴⁴ A007-ROP AND CLR COMBINED; VOL 3 of 3 APP CT # 88-105, TCROP at 1379-1381.

C. Post-Conviction Proceedings

1. Direct Appeal

Wilson claimed in his direct appeal that his confession was not voluntary and was obtained in violation of his right to counsel. The appellate court's April 16, 1990 opinion of the court stated that Wilson's confession to the murders was voluntary, even though he made no telephone calls until after giving the court reported statement and police offered to protect his family if he confessed; Wilson was not continuously interrogated, was only briefly questioned each time, slept, ate, and drank, and stated in his court reported statement that he was treated well.⁴⁵

2. Post-Conviction Petitions/Habeas Petitions/Proceedings

On October 3, 1990, Wilson's petition to appeal to the Illinois Supreme Court was denied.⁴⁶ Following final appellate affirmance of his convictions for first-degree murder, Wilson sought post-conviction relief. On October 11, 1991, Wilson filed a *pro se* post-conviction petition with the Circuit Court of Cook County, Illinois.⁴⁷ Wilson did not allege abuse.⁴⁸ On October 28, 1991, he was appointed a public defender to represent him on the motion. That attorney withdrew on March 13, 1995, replaced by private attorney Frederick Cohn,⁴⁹ who filed an amended PC petition on Wilson's behalf on September 17, 1996.⁵⁰ Wilson again did not allege abuse.⁵¹ On Feb. 4, 1998, The Circuit Court of Cook County, Ronald A. Himel, J., dismissed petition without evidentiary hearing, and Wilson appealed.⁵² On August, 11, 1999, the Appellate Court, Burke, J., held that (1) petitioner waived appellate review of his contention that he was denied effective assistance of trial counsel by reason of conflict of interest; (2) documents not available at trial and relating to alleged conflict of interest did not revive claim; (3) trial counsels' simultaneous unrelated representation of petitioner and another person did not give rise to per se violation of constitutional guaranty of effective assistance of counsel; and (4) petitioner was not entitled to depose his trial counsel.⁵³

On December 20, 2000, Wilson filed a petition for a writ of habeas corpus, arguing his trial attorney, who also represented Taylor in another criminal matter, was conflicted, and should have had Wilson plead guilty and testify against Taylor in exchange for a more lenient

⁴⁵ *People v. Wilson*, 196 Ill.App.3d 997, 1016 (1990).

⁴⁶ *People v. Wilson*, 133 Ill.2d 571 (1990).

⁴⁷ See Exhibit 15: Petition for Post-Conviction Relief & accompanying motion to proceed *in forma pauperis* and to appoint an attorney.

⁴⁸ *Id.*

⁴⁹ See Exhibit 16, handwritten court clerk's docket.

⁵⁰ See Exhibit 17: Amended Post-Conviction Petition.

⁵¹ *Id.* at 1-6; TCROP at 1541-1546.

⁵² TCROP 1550-1551; See also *People v. Wilson*, 307 Ill.App.3d 140, 141-142 (1999).

⁵³ *People v. Wilson*, 307 Ill.App.3d 140, 141-142 (1999).

sentence.⁵⁴ He did not allege torture or coercion in the petition. Respondent moved to dismiss the petition as untimely, and District Judge Andersen ultimately did so.⁵⁵

On March 31, 2003, Wilson’s petition to the U.S. Supreme Court was denied.⁵⁶

IV. TIRC Investigation

A. Wilson Interview, conducted by K&E Attorneys (December 29, 2020).⁵⁷

On December 29, 2020, K&E attorneys Edward Hillenbrand, Onnolee Keland, and Tobias Rushing interviewed Wilson for approximately two hours. Wilson’s statements were generally consistent with his trial testimony. He stated that police officers told him that his and his family’s life were in danger, and that the police would provide him and his family with protection if he signed the confession. Wilson stated that the alleged threats only occurred during the second round of questioning on November 24, 1986. Wilson consistently stated that he was not beaten by the police or threatened with beatings by them, and that he was provided with food, water, and restroom breaks. Additionally, Wilson stated, consistent with his trial testimony, that he was left in a room to sleep from approximately 1 a.m. to 8 a.m. on the morning of November 25, 1986. However, during the interview he claimed that his sleep was interrupted by officers entering the room and asking him questions.

Wilson stated that the police dictated to him the statement he eventually gave. His memory was fuzzy on the names of the officers present for the interrogation, but Wilson mentioned that approximately six officers were involved in his interrogation and he specifically named O’Neill and “McCline.”⁵⁸

Wilson stated that the police told him that they would only protect his family and he would only be provided a lawyer if he agreed to the sign the statement. He further claimed that the police concocted the story that Wilson had conspired to set up Stokes to be robbed. Inconsistent with his prior trial testimony, Wilson stated that the police only showed him pictures of the victims of the crime and did not show him pictures of dead children from other crimes.

B. Pattern & Practice Evidence

1. Complaints Against Accused Officer #1 (Det. Michael Baker)

Detective Baker has been subject to 11 complaint investigations. He has never been disciplined. None of the complaints alleged physical or psychological abuse during interrogation,

⁵⁴ See Ex. 9 *Petition for Habeas Corpus, U.S. ex rel. Wilson v. Battles*, filed Dec. 20, 2000.

⁵⁵ See *U.S. ex rel. Wilson v. Battles*, 2001 WL 1064536 (N.D. Ill. 2001) (initially granting filing of the petition, but later denying filing of the petition as untimely upon reconsideration); see also *Wilson v. Battles*, 302 F.3d 745 (7th Cir. 2002) (affirming dismissal on grounds of untimeliness).

⁵⁶ *Wilson v. Battles*, 538 U.S. 951 (2003).

⁵⁷ See Ex. 14: Dec. 29, 2020 Wilson TIRC Interview.

⁵⁸ There is no record of any officer named “McCline.” This is believed to be a reference to then-Lieutenant Phil Cline, who was present at Wilson’s interrogation.

though one complainant stated that Baker became angry and shouted expletives at her during an interview.

Two complaints alleged that Baker beat suspects during arrests. In 1985, an arrestee filed a federal civil lawsuit that alleged officers hit him, kicked him, stepped on his back and handcuffs he was wearing, and administered a drug to keep him quiet. These allegations were not sustained by CPD, and the civil suit ended when the court granted summary judgment to Baker and other officers because the arrestee could not produce any evidence of abuse. In 1991, the mother of an arrestee complained that Baker and other officers had hit and kicked her and her son during the arrest. The allegations were not sustained because reports indicated that the arrestee and his mother violently resisted arrest.

Though none of Baker's complaints resulted in discipline, they implicate officers with more robust histories of alleged torture. These officers include Michael McDermott, who is implicated in three cases that the Commission has referred for judicial review. In addition, Baker was supervised by Jon Burge at Area 2 from 1982 to 1986.

On March 3, 2014, Detective Baker, Detective Solecki, and the City of Chicago were sued by Alprentiss Nash in federal district court. The suit alleged that Baker and Solecki arranged an unduly suggestive lineup and suppressed exculpatory evidence, which led to Nash's conviction for the murder of Leon Stroud. Seventeen years after conviction, Nash was exonerated by DNA evidence. All charges were dismissed and the state did not oppose Nash's petition for a certificate of innocence. The city paid \$350,000 to settle Nash's suit. Nash's suit did not allege torture.⁵⁹

2. Complaints Against Accused Officer #2 (Det. Joseph Danzl)

Detective Danzl has been the subject of four lawsuits and/or TIRC claims. Danzl has also been the subject of three complaint investigations. One of the complaints, which resulted in a lawsuit, and two additional lawsuits alleged physical or psychological abuse during arrest or interrogation, including beatings, and one of the complaints alleged Danzl coerced a 16 year old witness into falsely implicating another individual. Danzl is involved in two other TIRC claims.

In 2003, Aaron Patterson was released after spending thirteen years on death row for murder. Upon his release, he filed a federal civil lawsuit against Burge and several other Chicago police officers, including Danzl, alleging the officers coerced a witness to falsely implicate Patterson through torture. Danzl pled the Fifth Amendment privilege against self-incrimination when questioned about abusing suspects in police custody.

Scott Mitchell also filed a torture complaint with the TIRC. In the complaint, Mitchell alleged that Danzl had beaten him while in police custody during a 33-hour interrogation and threatened to lock up Mitchell's mother. The TRIC found that there was sufficient evidence to warrant judicial review of Mitchell's claim. Mitchell ultimately traded his TIRC hearing for a reduced sentence and guilty plea.

⁵⁹ See Ex. 10: Summary of Complaints against Detective Baker.

Similarly, Erwin Daniel filed a torture complaint with the TRIC. Daniel alleged that Danzl (and Jon Burge) hit him during an interrogation. The TIRC concluded that there was not sufficient evidence to substantiate claims of torture, largely due to the Daniel's lack of credibility and the fact that he waited nearly twenty years to raise the issue.

In 1985, Paul de la Paz filed an excessive force claim against both Danzl and Baker, alleging they beat de la Paz during an arrest. The district court found that the defendants were entitled to judgment as a matter of law.

In addition to Danzl's prior history of torture, the allegations against him also implicate officers with more robust histories of alleged torture, including Jon Burge.⁶⁰

3. Complaints Against Accused Officer #3 (Det. John Solecki)

Detective Solecki has been subject to five complaint investigations. He has never been disciplined. One of the complaints alleged physical or psychological abuse during interrogation. The other complaints involved searches without a warrant and destruction of property.

In 1988, an arrestee claimed that Solecki was among officers that kicked and beat him during an interrogation. The investigator determined that there was not sufficient evidence to either prove or disprove the allegations brought by this arrestee.⁶¹

STANDARD OF DECISION

Section 40(d) of the Illinois Torture Inquiry and Relief Act permits the Commission to conduct inquiries into claims of torture. *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 committed by Commander Jon Burge or any officer under the supervision of Jon Burge." 775 ILCS 40/5 (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.⁶²

The Commission was not asked by the General Assembly to conduct full, adversarial, evidentiary hearings concerning the likelihood of torture, or even to make a final finding of fact that torture likely occurred. That remains the role of the courts. Instead, the Commission has

⁶⁰ *See* Ex. 11, Summary of Complaints against Detective Danzl.

⁶¹ *See* Ex. 12, Summary of Complaints against Detective Solecki.

⁶² *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).

interpreted Section 45(c), through its administrative rules, as requiring it to determine whether there is sufficient evidence of torture to merit judicial review.⁶³

ANALYSIS

I. Definition of Torture

The Commission first addresses whether Wilson’s allegation rise to the level of torture. “‘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.” (See 775 ILCS 40/5(1); 20 Ill. Admin 2000.10.)

The definition of torture and the other TIRC rulings presented in this memorandum indicate that Wilson’s claims teeter on the edge of what constitutes torture. However, given the totality of the circumstances (including Wilson’s lack of sleep), we believe that the police statements—including (1) that Wilson and his family’s lives were in danger and offering police protection, and (2) that the police would release the information that he organized the murder of Stokes to Stokes’ associates—together constitutes torture.

II. Comparison to Other TIRC Cases

The TIRC has recently opined on several other cases with similar fact patterns to Wilson’s claims. Specifically, the TIRC made recommendations for the claims brought by each of Willie Johnson and Maurice Pledger.

In the case of Willie Johnson, Johnson was brought to Area 2 where he was handcuffed to a chair and interrogated overnight, while intoxicated, in thirty-minute to sixty-minute intervals. Johnson told the officers that his handcuffs were too tight, but the detectives did nothing. Johnson also testified that the officers were yelling and threatened to kick his ass. One of the detectives who interrogated Johnson, Detective Dioguardi, had a history of misconduct, had been in a related lawsuit (which settled), and an office of professional standards investigator recommended charges of brutality be sustained against him for mistreatment of another suspect. The TIRC found that there was sufficient evidence to support a claim of torture and merited a judicial review. The TIRC specifically stated that the judicial review was merited because (1) the police threats were more than just verbal and Johnson had physical pain because the handcuffs were too tight, (2) Johnson’s intoxication rendered the threats more intimidating to him, (3) Johnson’s story has remained generally consistent, (4) Dioguardi had previously secured a

⁶³ 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 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 post-conviction petition could advance to the third stage.” *People v. Christian*, 2016 IL App (1st) 140030, ¶95, 98.

confession from an innocent man in a rape case by alleged threats of physical abuse, and (5) Johnson had not slept at the time of his interrogation.

In the case of Maurice Pledger, Pledger was interrogated overnight for about 15 hours by police in Area 2 and Area 3. He claimed that police: told him that if he didn't confess, he would be locked up for a year before he could see an attorney or judge, threatened him with "gas treatment," smacked the wall above his head, and denied him access to a phone and the bathroom. The TIRC found that there was not sufficient evidence to support a claim of torture. Specifically, the TIRC stated that (1) there was no overt physical abuse, (2) Pledger was sober at the time of the interrogation, and (3) the alleged verbal threats were hard to believe as objectively reasonable. Furthermore, the Commission also noted that the threat of the use of the "gas chamber" was not a threat of *imminent* bodily harm.

In the case of Jesus Morales, Morales was denied his insulin and sleep deprived for approximately 22 hours before making a confession. Morales claimed that he was tortured on three grounds: (1) he was sleep deprived; (2) he was denied medical treatment that was required; and (3) he was not provided a Spanish-speaking translator. The Commission denied the claim of torture on the grounds of insulin deprivation and the translator issue, but did find sufficient evidence to support a claim of torture based on sleep deprivation. The Commission specifically stated that sleep deprivation alone can support a claim of torture.

Wilson's claims here share some similarities to the fact patterns of these three cases. Moreover, the facts of Wilson's claim appear to fall somewhere between the Pledger case, on the one hand, and the Morales and Johnson cases, on the other hand. Wilson was interrogated for about 24 hours, including overnight, when, he claims, his sleep was repeatedly interrupted over the course of the night. This was longer than either of the interrogations in the Johnson or Pledger cases, but not as long as the sleep deprivation in the Morales cases. The threats in Wilson's case seem more believable than Pledger's claims. Police threats to use the "gas chamber" on Pledger *in the police station* were less objectively credible than the police threats to spread the word about Wilson's involvement in Stokes' murder within his community, especially given Wilson's involvement as a police informant. Furthermore, the threats against Wilson carried an imminent risk of bodily harm; Taylor or Stokes' associates could have retaliated against Wilson or his family soon after the police leaked the information following Wilson's release from their custody. On the other hand, the threats against Pledger were not imminent; any threats to use the "gas chamber" would not have caused harm until years following a conviction. Also, Detective Dioguardi was involved in Wilson's interrogation. However, Wilson was not intoxicated at the time of interrogation that heightened the sleep deprivation techniques and perception of threat and harm. Additionally, there are no claims of physical abuse, which although not necessary to support a claim of torture, bolsters support for a claim of torture.

Nonetheless, based on the totality of the circumstances, we believe that the facts of this case are more akin to the Johnson and Morales case than the Pledger case.

III. Factors Supporting Claim of Torture

Several factors support the Wilson's allegations of Torture:

- Wilson's claim of police abuse and coerced confession were consistent from pre-trial motion, through trial and post-conviction.
- There is a large body of evidence that the police officers involved, particularly Detectives Danzl and Baker, had a history of abuse towards detainees.
- Wilson testified that he feared for his life and the lives of his family. This fear appears credible given the circumstances that Wilson was intimately aware of Stokes' reputation as a dangerous individual, as Wilson had been Stokes' bodyguard for approximately three months before the murder.
- Wilson claimed that the police would have informed his community of his involvement in Stokes' murder unless he confessed. While there are some logical inconsistencies in this story, we find that Wilson's belief that he would have been safer in custody is credible. He could have believed that he would have an opportunity to tell his story at trial or exhaust other legal remedies, and that this was a better option than having the police spread their own story in his community regarding his involvement, particularly if police would have revealed that he was a police informant.
- Wilson claims that he did not sleep through the night of November 24, 1986 and may have been sleep deprived when he signed a confession on November 25, 1986.
- The duration of Wilson's interrogation was approximately 24 hours, which is longer than the interrogation in question in the claim of Maurice Pledger.⁶⁴
- Wilson's story has remained largely consistent over the course of his initial trial and appeals. Despite some inconsistencies in his story at the time of his TIRC interview, we generally found Wilson to be credible.
- Wilson alleges that he was strip-searched by Lieutenant Cline prior to being interrogated, which supports an inference that Cline did not want the following interrogation recorded.

IV. Factors Detracting from Claim of Torture

Several factors weigh in opposition to the Wilson's allegations of Torture:

- Wilson never claimed he was physically tortured by the police; therefore, Wilson has no physical evidence of torture in medical records, photographs or other physical records.

⁶⁴ See e.g., Ex. 13, TIRC Claim No. 2011.080-P (2011) (Maurice Pledger).

Several other cases involving sleep deprivation and other psychological torture also involved physical harm or threats of physical harm.⁶⁵

- Wilson was not intoxicated at the time of the interview and would not have had a heightened sense of paranoia or concern at the time of the interview.
- Wilson had no history of being beaten or harmed by the police.
- Wilson's claim that police informed him his life and his family's lives were in danger, and that police would release the information that he organized the murder of Stokes to Stokes' associates, if taken as true, is right on the border of rising to the level of torture, as defined by under 775 ILCS 40/5(1).
- Wilson, when interviewed by K&E attorneys, inconsistently stated that was only shown pictures of the victims of the murder, contradicting his statements during trial that he was shown pictures of dead children also.
- Wilson, when interviewed by K&E attorneys, stated that he was tortured into making a statement, but did not state that he was tortured into making a statement confessing to the crime. Wilson's answers to the line of questioning appeared to show signs of rehearsal, in the perspective of the K&E attorneys.
- Wilson's claim that he signed a confession to protect his family does have some logical inconsistencies, including the fact that by signing the confession, he was admitting to the crime that may put him in danger in his local community.

IV. Weighing of the Evidence

We found that Wilson was generally credible. His story has not changed since he first alleged police misconduct in 1986, except during the interview conducted by K&E attorneys, in which Wilson stated that he had not been shown photographs of dead children. Given the time that has passed since the interrogation in question, we do not believe that this undermines Wilson's credibility generally. We found that this factor weighs slightly in favor of Wilson.

The duration of the interrogation coupled with sleep deprivation and continued interrogation through the night further supports Wilson's claims of torture. Wilson has consistently stated that he was left in an interrogation room overnight, with his sleep interrupted repeatedly while restrained to a bench, on which he was expected to sleep. The duration of Wilson's interrogation was longer than that in the Pledger case. The duration and sleep deprivation in the Morales case was similar to the sleep deprivation in Wilson's case. Furthermore, the Morales case found that sleep deprivation *alone* could constitute torture. Here we have credible verbal threats, which are imminent, in connection with sleep deprivation. We therefore found that this factor weighs in favor of Wilson.

⁶⁵ See e.g., Ex. 1, TIRC Claim No. 2014.196-J (2014) (Willie Johnson).

Many of the police officers involved in Wilson's interrogation have a history of misconduct, including lawsuits. Many of these individuals also worked closely with Burge himself. Furthermore, while we do not consider the fact that Detective Danzl asserted his Fifth Amendment right in connection with the Patterson case to be an admission of guilt, taken together with the district court's findings that Patterson stated common law claims for malicious prosecution, intentional infliction of emotional distress, and conspiracy against each of the individual defendants, we believe there is credible evidence to believe that Danzl had been involved in police misconduct in Patterson's case. The police officer's misconduct factor weighs heavily in favor of Wilson.

The threats Wilson claims police made against his family are more credible than those in the Pledger case, but are still problematic. On the one hand, as a police informant and someone who has interacted with police, Wilson would have been aware of the police's ability to provide protection or spread information throughout a community. However, logically, there are some issues with Wilson's statements. Wilson claimed that police threatened to tell others in his community that he had been involved in Stokes' death unless he confessed. But confessing to the crime would ultimately spread knowledge of his involvement throughout his community anyway, which should undermine his allegations. However, based on Wilson's testimony, it's possible that he believed that the police would provide protection to his family if he confessed. Ultimately, we found Wilson's belief in this threat credible, even if the threats were not as compelling as threats presented in other TIRC claims.

On the other hand, unlike Johnson, Wilson was not intoxicated at the time of the interrogation. Therefore, Wilson didn't have the same heightened paranoid state that contributed to Johnson's fears concerning the police threats. Wilson also does not have a history of physical or mental handicaps. This factor distinguishes Wilson's case from the Johnson case.

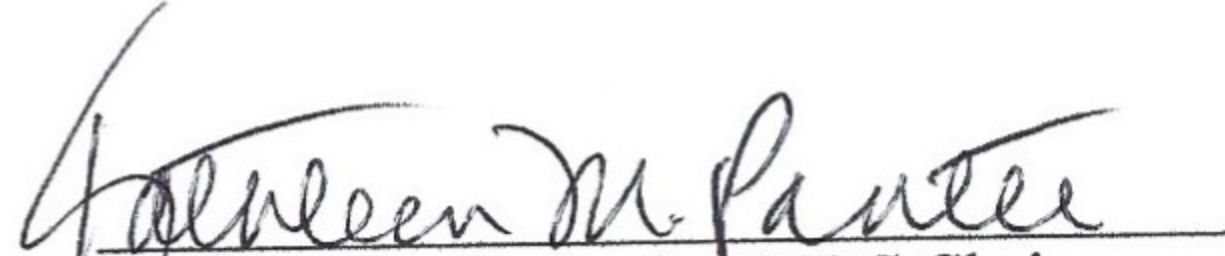
Although Wilson did not and has never alleged that any officers involved in his claims physically abused him, and some form of physical abuse bolsters a claim of torture, as noted above, the Commission has determined mere emotional abuse can constitute torture in some cases. We believe that this is one of those cases.

We generally found that the facts of this case straddle the line between torture and coercion that doesn't rise to the level of torture. In such a scenario, we are inclined to weigh the deciding factor in favor of Wilson. Therefore, comparing the competing factors laid out above, we find that there is sufficient credible evidence of torture to warrant a judicial review. If taken as true, Wilson's testimony that police told him that his life and his family's lives were in danger and that the police would provide protection if he cooperated and signed a confession statement, is a factor in determining the voluntariness of the statement, and coupled with sleep deprivation and the police's history of misconduct rises to the level of torture as defined by 775 ILCS 40/5(1).

CONCLUSION

The Commission concludes, by a preponderance of the evidence that there is sufficient evidence of torture to merit judicial review of Wilson claim, and it instructs its Executive Director to refer the claim to the Chief Judge of Cook County for further review. This determination shall be considered a final decision of an administrative agency for purposes of administrative review under the Administrative Review Law (735 ILCS 5/3-101).⁶⁶ The Commission also instructs its Executive Director to notify Wilson of this decision.

Dated: June 16, 2021


Kathleen Pantle, Acting TIRC Chair

⁶⁶ See 775 ILCS 40/55(a) of the TIRC Act. 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 (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.