

## BEFORE THE ILLINOIS TORTURE INQUIRY AND RELIEF COMMISSION

In re:  
Claim of Ebony Reynolds

TIRC Claim No. 2012.116-R  
(Relates to Cook County Circuit Court  
Case No. 96-CR-19599)

### Case Disposition

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), the Illinois Torture Inquiry and Relief Commission (the “Commission”) concludes that, by a preponderance of the evidence, there is sufficient evidence of a tortured confession used to obtain a conviction 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 Findings of Fact, Analysis and Conclusions set forth below, as well as the supporting record and exhibits attached hereto.

### Executive Summary

Mr. Ebony Reynolds was arrested in May 1996, in connection with the murder of Ms. Dora Cobb. Mr. Reynolds alleges that during police interrogations between May 23 to May 25, 1996, Detectives Michael McDermott and James Boylan engaged in numerous forms of assault and torture, including punching him in the ribs and face, slapping him in the face, threatening to “knock the baby out” of his then-pregnant girlfriend Ms. Michelle Clopton (also in police custody at the time), striking him in the face with a flashlight, and refusing all requests for an attorney.<sup>1</sup> Mr. Reynolds further contends that after this physical and psychological abuse and being held in an interrogation room for at least approximately 30 hours,<sup>2</sup> Detectives McDermott and Boylan promised him that if he gave a statement about the alleged events leading to Ms. Cobb’s murder, Mr. Reynolds and his girlfriend Ms. Clopton would be placed in protective custody (witness protection) and would only be witnesses in exchange for their testimony against Mr. Sherman Johnson and/or Mr. John Knight.<sup>3</sup> Mr. Reynolds claims that as a direct result of this sustained physical and psychological abuse, he signed a written confession that led to his conviction of first-

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<sup>1</sup> EXHIBIT 13: TIRC Claim Form of Ebony Reynolds.

<sup>2</sup> During Mr. Reynolds’ trial, there was a discrepancy among witnesses for the defense and witnesses for the prosecution as to when Mr. Reynolds arrived at Area 2. The defense asserted that police brought Reynolds to Area 2 the evening of May 23, 1996, and the prosecution asserted that it was the evening of May 24, 1996. *Compare* Transcript of Hearing on Motion to Suppress (February 27, 1997), at A-53 to A-55 (TIRC-Compiled Record of court Proceedings (hereinafter TCROP) 66-68 (Detective Boylan testifying that the three suspects were located on the evening of May 24, 1996), and Transcript of Hearing on Motion to Suppress (March 20, 1997), at C-11 to C-12 (TCROP 219-210) (Michelle Clopton testifying that the three suspects were picked up by police the evening of May 23, 1996). At his suppression hearing, Reynolds testified he was arrested on May 23, 1996 (TCROP 282); at his trial, he testified he was arrested on May 24, 1996 (TCROP 1317). Judge Vincent Gaughn found the defendants were picked up on May 24, 1996 (TCROP 370).

<sup>3</sup> Reynolds Trial Proceeding (November 9, 1999) at I-75 to I-78 (TCROP 1318-1321).

degree murder.<sup>4</sup> Following his conviction, Mr. Reynolds was sentenced to natural life in confinement.<sup>5</sup>

While certain parts of Mr. Reynolds' testimony are inconsistent, those inconsistencies are balanced by evidence supporting torture, such as general consistency and early outcry, as well as a pattern and practice of abuse allegations against the detectives involved. Accordingly, the Commission finds that, on balance, judicial review is appropriate here.

### **Timeline of events regarding Mr. Reynolds during police custody<sup>6</sup>**

- Thursday, May 23 or May 24,<sup>7</sup> 1996 at approximately 7:30 p.m.: Detectives Boylan, McDermott, Paul Alfini, and William Higgins arrive at 5555 W. Quincy and take Mr. Reynolds into custody, along with Ms. Clopton and Ms. Kimberly Head.
- Thursday, May 23 or May 24, 1996 at approximately 8:15 p.m.: Mr. Reynolds, Ms. Clopton, and Ms. Head arrive at Area 2 Violent Crimes.
- Thursday, May 23 or May 24, 1996 at approximately 9:00 p.m.: Mr. Reynolds is interrogated by Detectives Boylan and McDermott. Mr. Reynolds contends he is not informed of his *Miranda* rights but nonetheless invoked his right to silence and his right to counsel.<sup>8</sup>
- (Some time around, but after the first interrogation): Detectives Boylan and McDermott learn that Ms. Clopton is pregnant and that Mr. Reynolds is the father of the unborn child.
- (Unspecified, intermittent times): Detectives Boylan and McDermott make multiple attempts to interrogate Mr. Reynolds despite Mr. Reynolds not having counsel present, and despite his alleged requests for counsel. Mr. Reynolds refuses to speak with Detectives Boylan and McDermott.
- (Unspecified time after multiple unsuccessful attempts at questioning): Detective Boylan, according to Mr. Reynolds, punches Mr. Reynolds in the ribs and face, slaps him in the face, hits him with a flashlight causing a chipped tooth, and threatens to “knock the baby out of” Ms. Clopton and deprive him of ever seeing his unborn child.<sup>9</sup>

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<sup>4</sup> Reynolds Trial Proceeding (November 9, 1999) at I-75 to I-76 (TCROP 1318-1319).

<sup>5</sup> Reynolds Sentencing Proceedings (January 14, 2000) at N-11 (TCROP 1497).

<sup>6</sup> See Executive Summary and Factual Findings section, *infra*, for supporting testimony and documentation.

<sup>7</sup> Defendants and the state disagreed as to the date of arrest, with defendants claiming arrest occurred May 23 and the state claiming it took place May 24. Judge Vincent Gaughan ultimately found the arrest occurred on May 24. See fn. 2.

<sup>8</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-71 (TCROP 84).

<sup>9</sup> See EXHIBIT 1: Reynolds TIRC Interview video, at 42:03.

- (Unspecified time after alleged beating and threats): Detectives Boylan and McDermott make multiple attempts to interrogate Mr. Reynolds, again, without the presence of counsel. Mr. Reynolds refuses to speak with them.
- Saturday, May 25, 1996 at approximately 7:00 a.m.: Mr. Reynolds contends Detectives Boylan and McDermott promise Mr. Reynolds that he and Ms. Clopton will be placed in a witness protection program if he signs a statement prepared by Assistant State Attorney James Lydon and testifies against John Knight.
- Saturday, May 25, 1996 at approximately 9:15 p.m.: Assistant State Attorney James Lydon, accompanied by Detective Higgins, speaks with Mr. Reynolds.<sup>10</sup>
- Sunday, May 26, 1996 at approximately 7:30 a.m.: Mr. Reynolds signs a handwritten statement<sup>11</sup>, prepared by Assistant State Attorney James Lydon, confessing to the murder of Dora Cobb.
- Entire period of police custody: Over approximately 30+ hours of custody, Mr. Reynolds contends he is not provided food and was given a chance to use the restroom only once.

**The factors weighing *in favor* of Mr. Reynolds' claims are:**

- The general consistency of Mr. Reynolds' claims. Consistent with the facts before the Commission, Mr. Reynolds' prior attorney raised the abuse allegations and sought to have his confession suppressed before trial, albeit unsuccessfully. There is general consistency between his testimony at that suppression hearing, his testimony at trial, his statements in his TIRC claim form, subsequent letters, and his interview in the presence of Commission staff more than 25 years after his written confession.
- Suggestive, but not definitive, physical evidence that Mr. Reynolds was hit in the face with a flashlight. At the time of the suppression hearing, Mr. Reynolds' tooth was visibly chipped. This is corroborated in the record during his hearings where the Judge noted that his left front tooth was cracked. However, a medical intake exam at Cook County Jail immediately after his police interrogation did not record any problems with his teeth, but Mr. Reynolds explained he had been warned by police not to complain of mistreatment.
- The lack of any physical evidence against Mr. Reynolds that would support his coerced written confession. The allegation was that Mr. Reynolds hit the victim with a stick across her back to stun and temporarily disable her before the victim was murdered by gunshots to the head. The prosecution was unable to produce either the stick, or any sign on the victim of being struck. This lack of physical evidence may have provided more motive on the part of Detectives Boylan and McDermott to induce a confession.
- The general consistency between claims made by Ms. Head, Ms. Clopton, and Mr. Reynolds regarding their treatment. All three suspects claimed that Detectives Boylan and

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<sup>10</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-136 (TCROP 149).

<sup>11</sup> See EXHIBIT 2: Ebony Reynolds' May 26, 1996 Handwritten Statement to Police & Assistant State's Attorney.

McDermott ignored repeated requests for an attorney and that the three suspects were promised leniency in exchange for giving confessions. Both Mr. Reynolds and Ms. Head consistently claim that they were not allowed to use the restroom. Ms. Head's credibility is enhanced because she was testifying for the prosecution, and thus would have less reason to misrepresent treatment by police, especially of uncomfortable facts such as urinating in an interview room trashcan.

- Significant, substantiated, and consistent Pattern and Practice evidence of abuse allegations against both Detectives McDermott and Boylan. For example, a state attorney and special prosecutor found there was proof beyond a reasonable doubt that McDermott committed aggravated battery against a detained suspect. An appellate court has labeled him an "admitted perjurer" and a federal judge noted he vastly shifted his testimony against Commander Jon Burge between his grand jury testimony and trial.
- The credibility of Detectives Boylan and McDermott is diminished by their near-blanket denials that defendants did not request an attorney or were mistreated in any way. The CPD's *own police report* documents that after one defendant, Sherman Johnson, asked another detective for an attorney, that detective again tried to question Johnson a second time, despite clear precedent mandating all interviews cease. Combined with Ms. Head's very credible testimony about being denied an attorney and having to urinate in a trash can, it seems probable that prisoners' rights were not paramount in that environment and at least *some* mistreatment or denial of rights occurred. The credibility of Detectives Boylan and McDermott is further diminished by other inconsistencies between their recounting of events and the testimony of Mr. Reynolds and Ms. Collins regarding whether Mr. Reynolds was handcuffed when being initially apprehended by police. Both detectives claim that he was not. However, Mr. Reynolds claims that he was, as does Ms. Collins a third-party witness with less motive to lie about such a small detail.
- Twenty-five years after his arrest, Mr. Reynolds' answers to interview questions in the presence of the Commission staff were consistent with prior claims.

**The factors weighing *against* Mr. Reynolds' claims are:**

- The intake paramedic at the jail testified that her examination of Mr. Reynolds revealed no evidence of abuse.
- Minor inconsistencies in Mr. Reynolds' testimony. Mr. Reynolds was admittedly unable to distinguish by name Detectives Boylan and McDermott. He also did not raise any allegations of torture at trial, although he explained later that his counsel had determined this would be futile, because the Court had already denied his motion to suppress the confession due to torture.
- It is unclear whether he signed the written statement as a result of (i) the physical and psychological abuse, or (ii) the promise that he and his girlfriend would be placed in a witness protection program if he signed the written statement. If the latter was the reason, this may not be "torture" or physical or mental suffering, but rather seeking an advantage

or a benefit in exchange for testimony or information. However, Mr. Reynolds repeatedly focused on the former as the reason in the recent interview.

- Mr. Reynolds' credibility is suspect because of prior convictions for unlawful use of a firearm, possession of a stolen vehicle, burglary, and multiple convictions for possession of a controlled substance.

## **Factual Findings**

### **I. The Crime**

On March 2, 1996, Ms. Dora Cobb's body was discovered in the Dan Ryan Woods. Her cause of death was later identified as multiple gunshot wounds to the head.

### **II. The Police Investigation**

While investigating the murder of Ms. Cobb, Detectives Michael McDermott and James Boylan received a tip from an informant of another officer that Mr. Sherman Johnson had offered to pay \$1,000 for Ms. Cobb's murder because Mr. Johnson felt that Ms. Cobb had informed police about his illegal drug ring operations.<sup>12</sup> The informant, Ms. Theresa Johnson, further stated that she had knowledge that Mr. Knight and Mr. Reynolds agreed to carry out the murder for hire, and that Ms. Clopton and Ms. Head agreed to assist Mr. Knight and Mr. Reynolds.<sup>13</sup> Acting on that information, Detectives McDermott and Boylan, along with Detectives Paul Alfini and William Higgins, proceeded to locate Mr. Reynolds, Ms. Head, and Ms. Clopton.<sup>14</sup> Mr. Reynolds, Ms. Head, and Ms. Clopton were taken into custody and brought to Area 2 Violent Crimes, separated, and placed in separate interview rooms for questioning. Mr. Johnson was not apprehended until July, and police reports indicate he requested an attorney at his first interview by a detective. Nonetheless, the same police report indicates that the detective to whom Johnson invoked his rights to counsel again tried to question Johnson once an Assistant State's Attorney arrived.<sup>15</sup>

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<sup>12</sup> Reynolds Trial Proceeding (November 9, 1999) at I-4 to I-6 (TCROP 1247-1249).

<sup>13</sup> Reynolds Pre-Trial Proceeding, Motion to Quash Arrest (July 9, 1997) at F-7 (TCROP 384).

<sup>14</sup> There was some dispute as to when Reynolds, Head, and Clopton were located by police. Detective McDermott testified that the three suspects were not located until the evening of May 24, 1996. The defense asserted that police brought Reynolds to Area 2 the evening of May 23, 1996. *Compare* Transcript of Hearing on Motion to Suppress (February 27, 1997), at A-53 to A-55 (TCROP 66-68) (Detective Boylan testifying that the three suspects were located on the evening of May 24, 1996), and Transcript of Hearing on Motion to Suppress (March 20, 1997), at C-11 to C-12 (TCROP 219-210) (Michelle Clopton testifying that the three suspects were picked up by police the evening of May 23, 1996). At his suppression hearing, Reynolds testified he was arrested on May 23, 1996 (TCROP 282); at his trial, he testified he was arrested on May 24, 1996 (TCROP 1317). Judge Vincent Gaughn found the defendants were picked up on May 24, 1996 (TCROP 370).

<sup>15</sup> *See* EXHIBIT 3: July 26, 1996 Supplemental Report of Detective Paul Alfini, at 2.

Mr. Reynolds alleged that he endured physical and psychological abuse while he was in custody, before signing a confession.<sup>16</sup> Mr. Reynolds was indicted and found guilty of first-degree murder after a jury trial (Case No. 96-CR-19599) and was sentenced to natural life in prison.

Prior to the trial, Mr. Reynolds, Ms. Clopton, Mr. Johnson and Mr. Knight filed separate motions to suppress statements, some of which were heard together at a joint hearing, but all ultimately denied.<sup>17</sup>

### **III. Case Proceedings, Case No. 96-CR-19599 (Judge Vincent Gaughan)**

#### **A. Suppression Hearing**

Judge Gaughan denied the motion to suppress on the grounds that he found the testimonies of the Detectives to be more reliable than Mr. Reynolds and Ms. Clopton's testimony.<sup>18</sup>

##### 1. Testimony of Detective James Boylan

Detective Boylan testified that, on May 23 and 24, 1996, he and his partner, Detective McDermott, were investigating a homicide. On the evening of May 23, the detectives received information from an informant that the perpetrators of the murder were at 5555 West Quincy, the home of Mr. Reynolds, Ms. Clopton, and Ms. Head.<sup>19</sup> Detective Boylan testified that he and McDermott, as well as Detectives Alfini and Higgins, proceeded to the West Quincy address on May 24, where they located and held<sup>20</sup> Mr. Reynolds, Ms. Head, and Ms. Clopton, and brought them to Area 2 for questioning. However, cross-examination revealed that Detective Boylan's report of the investigation discussed locating the suspects immediately after discussing receiving information from the informant on May 23, with no indication of the suspects being located the next day.<sup>21</sup>

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<sup>16</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-83 to C-88 (TCROP 291-296) (Reynolds describing the abuse he endured during his interrogation).

<sup>17</sup> *See generally* Reynolds Motion to Suppress Hearing (February 27, 1997) (TCROP 23-204); Reynold Motion to Suppress Hearing (March 20, 1997) (TCROP 209-325); EXHIBIT 11: Reynolds Written Motion to Suppress.

<sup>18</sup> Reynolds Motion to Suppress Hearing (April 7, 1997) at D-47 to D-50 (TCROP 372-375) (Judge Gaughan making findings with respect to Mr. Reynolds).

<sup>19</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-53 to A-55 (Detective Boylan testifying that the three suspects were located on the evening of May 24, 1996).

<sup>20</sup> It is unclear from the record whether Reynolds, Head, and Clopton were placed under arrest at this point in time or simply taken into custody/brought by Detectives Boylan, McDermott, Alfini, and Higgins back to Area 2. Reynolds claims that he was handcuffed at this point, which is supported by the testimony of Ms. Collins. However, Detective Boylan testified at the suppression hearing that Reynolds was not placed under arrest until the evening of May 25, 1996 at approximately 4:00 p.m., almost a full day after Detective Boylan claims that Reynolds was first brought into custody and almost a full two days after Reynolds claims he was brought into custody.

<sup>21</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-53 to A-55 (TCROP 66-68) (Detective Boylan testifying about the events of May 23 and May, 24, 1996); *see also* EXHIBIT 4: May 27, 1996 Summary Closing Report of James Boylan.

Detective Boylan testified that he and Detective McDermott, starting at about 8:30 p.m. on May 24, had conversations with all three suspects.<sup>22</sup> He further testified that all three suspects were informed of their *Miranda* rights, that all three suspects failed to indicate that they wished to speak to a lawyer, and that all three suspects voluntarily waived their *Miranda* rights and then voluntarily spoke with the detectives.<sup>23</sup> Additionally, Detective Boylan testified that none of the suspects asked to use the phone to inform family members where they were, that none of the suspects were made promises of leniency in exchange for speaking with police, and that none of the suspects were physically assaulted in any way.<sup>24</sup> Detective Boylan testified that they were all given food and allowed to use the restroom when needed. After initial conversations, Ms. Head and Ms. Clopton agreed to undergo polygraph tests the night of May 24.

Detective Boylan testified that he and Detective McDermott arrived back at Area 2 the following day, May 25, 1996, around 3:00 p.m., re-*Mirandized* the suspects, and resumed questioning.<sup>25</sup> Detective Boylan testified that questioning continued that day intermittently until approximately 8:00 p.m. or 8:30 p.m. At some point during the questioning, Detectives Boylan and McDermott became aware that Ms. Clopton was pregnant and that Mr. Reynolds was the father of the unborn child.<sup>26</sup>

Detective Boylan testified that he never punched, slapped, threatened, nor made promises of leniency to Mr. Reynolds, and that he had no knowledge of any other officer or detective doing such things.<sup>27</sup>

## 2. Testimony of Detective Higgins

During his testimony, Detective William Higgins denied that Mr. Reynolds invoked his rights, and denied that he was slapped, punched, or threatened.<sup>28</sup>

## 3. Testimony of Assistant State Attorney James Lydon

Assistant State Attorney (“ASA”) James Lydon was responsible for taking the incriminating statements of the suspects. He testified he first spoke with Reynolds on May 25 at 9 or 9:15 p.m. with Detective Higgins present for a half hour.<sup>29</sup> On May 26, 1996 at approximately 7:30 a.m., outside the presence of Detectives Boylan and McDermott, ASA Lydon woke up Mr. Reynolds, who told him he had been treated well and that he wished to give a handwritten statement, which ASA Lydon prepared outside of Mr. Reynolds’ presence.<sup>30</sup> At 9 a.m., ASA

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<sup>22</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-19 (TCROP 32).

<sup>23</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-14 to A-89 (TCROP 27-102).

<sup>24</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-37 to A-39 (TCROP 50-52).

<sup>25</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-28 (TCROP 41).

<sup>26</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-58, A-88 (TCROP 71, 101).

<sup>27</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-23, A-27, A-31, A-39 (TCROP 36, 40, 44, 52).

<sup>28</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-90 to A-103 (TCROP 103-116).

<sup>29</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-136 (TCROP 149).

<sup>30</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-149 (TCROP 162).

Lydon and Detective Alfini showed him the statement and read a waiver of rights form and the statement to him in its entirety, which Mr. Reynolds signed, acknowledging he had been treated well, given bathroom breaks, been fed and had not been threatened or promised anything.<sup>31</sup>

ASA Lydon testified that he informed Mr. Reynolds of his *Miranda* rights, asked Mr. Reynolds if he had been treated well by the police officers (to which Mr. Reynolds responded “yes”), took Mr. Reynolds’ statement, and assisted Mr. Reynolds in making changes to it for accuracy.<sup>32</sup> At no point does ASA Lydon corroborate Mr. Reynolds’ claims that he was beaten, threatened, promised leniency in exchange for making a statement, or denied access to a lawyer.<sup>33</sup>

#### 4. Testimony of Michelle Clopton

Ms. Clopton testified that she was arrested and held by Detectives Boylan and McDermott between 7:00 p.m. and 7:30 p.m. on May 23, 1996 at 5555 West Quincy and then taken to Area 2.<sup>34</sup> She remembered that it was Thursday, May 23 because Kimberly Head reminded her that she had to take Ms. Head and Ms. Clemmie Collins to an appointment with the Department of Housing and Urban Development the next morning, Friday, May 24.<sup>35</sup>

Once at Area 2, Ms. Clopton was placed in an interview room and, after about 15 minutes, Detectives Boylan and McDermott entered, read her her *Miranda* rights, and proceeded to question her.<sup>36</sup> After learning that she was a suspect in the murder of Ms. Dora Cobb an hour or so after arriving to Area 2, Ms. Clopton asked Detectives Boylan and McDermott for her lawyer.<sup>37</sup> The Detectives did not allow Ms. Clopton to call her lawyer, and instead ignored her request and left the room.<sup>38</sup>

Approximately thirty minutes later, Detectives Boylan and McDermott re-entered the room Ms. Clopton was being held in and re-initiated questioning. Ms. Clopton reiterated that she did not know anything about the murder and that she would like to speak with her lawyer. The detectives then made disparaging comments about Ms. Clopton and left the room again without allowing Ms. Clopton to contact her lawyer.<sup>39</sup>

An hour or so later, Detectives Boylan and McDermott again reentered the room and asked Ms. Clopton if she would like to take a polygraph test, which she agreed to do. Ms. Clopton was

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<sup>31</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-149-A-153 (TCROP 162-166) ); *see also* EXHIBIT 2, Reynold’s statement to Lydon and Det. Alfini.

<sup>32</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-149 to A-151 (TCROP 162-164) .

<sup>33</sup> Reynolds Motion to Suppress Hearing (February 27, 1997) at A-149 to A-151 (TCROP 162-164).

<sup>34</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-11 to C-12 (TCROP 219-220) (Michelle Clopton testifying that the three suspects were picked up by police the evening of May 23, 1996).

<sup>35</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-11 to C-12 (TCROP 219-220)

<sup>36</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-14 to C-16 (TCROP 222-224).

<sup>37</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-17 (TCROP 225).

<sup>38</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-19 (TCROP 227).

<sup>39</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-20 (TCROP 228).

then taken to 11th and State, took the polygraph test, and then was taken back to Area 2.<sup>40</sup> At no point before or after the polygraph was Ms. Clopton granted the right to speak with her lawyer.

After being taken back to Area 2, Ms. Clopton was questioned briefly again and then left in the interview room overnight.<sup>41</sup> The next morning, two other officers who Ms. Clopton did not know came in and initiated questioning. Ms. Clopton reiterated her request to speak with her lawyer, which was again ignored.<sup>42</sup>

Ms. Clopton testified that on her second day in custody, which she identified as May 24, 1996, Detectives Boylan and McDermott told her that she would not be released until they spoke to Mr. John Knight and that if Mr. Knight came to the station she would be released.<sup>43</sup> Ms. Clopton was allowed to use the phone to call Mr. Knight's girlfriend to try to obtain Mr. Knight's whereabouts. At no point was Ms. Clopton allowed to call her lawyer.

Ms. Clopton was placed back in the interview room for a couple of hours. Detectives Boylan and McDermott returned, stating that they had Mr. Knight and asked Ms. Clopton to identify him from a picture, which Ms. Clopton did.<sup>44</sup> A couple of hours later, they returned again, stating that Mr. Knight and Kimberly Head were making statements that implicated Ms. Clopton as being at the scene of the crime, and that she should go ahead and tell them everything she knew.<sup>45</sup> Ms. Clopton repeated her request for her lawyer, which was ignored again.

Eventually, after multiple requests for a lawyer being ignored by Detectives Boylan and McDermott leaving the room, Detectives Boylan and McDermott came to Ms. Clopton with a promise of leniency if she spoke to them.<sup>46</sup> They told Ms. Clopton that if she spoke with them she would be released and probably get probation in exchange for testifying. Also, Detective Boylan told Ms. Clopton that she was not to say anything to ASA Lydon about the promises made to her by Detectives Boylan and McDermott or it would backfire on her and she would get life in prison.<sup>47</sup>

## 5. Testimony of Ebony Reynolds

Mr. Reynolds testified that, in the early evening hours of May 23, 1996, police officers arrived at 5555 West Quincy where he was staying with Ms. Head and Ms. Clopton's brother. Ms. Clopton was also present.<sup>48</sup> Mr. Reynolds testified that, in response to his inquiry about why they

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<sup>40</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-20 to C-22 (TCROP 228-230).

<sup>41</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-21 (TCROP 229).

<sup>42</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-27 (TCROP 235).

<sup>43</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-33 (TCROP 241).

<sup>44</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-36 (TCROP 244).

<sup>45</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-37 (TCROP 245).

<sup>46</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-39 (TCROP 247).

<sup>47</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-41 (TCROP 249).

<sup>48</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-74 (TCROP 282).

were there, the police officers said that they just wanted to talk to him down at the station and then placed Mr. Reynolds in handcuffs. He was then brought to Area 2 Violent Crimes.<sup>49</sup>

Mr. Reynolds testified that he was not advised of his *Miranda* rights before Detectives McDermott and Boylan began interrogating him, and further, that he was not advised of his *Miranda* rights at any point between being brought to Area 2 and him signing the confession handwritten out by ASA Lydon.<sup>50</sup>

Mr. Reynolds testified that when Detectives McDermott and Boylan began interrogating him, he indicated that he did not want to speak with them and that he would like to call his mother so she could have a lawyer present for him.<sup>51</sup> Mr. Reynolds asked Detectives McDermott and Boylan at least two more times to call his mother so that she could have a lawyer present for him.<sup>52</sup> Further, Mr. Reynolds testified that over the two and a half day period he was held at Area 2, he indicated that he did not want to speak to Detectives McDermott and Boylan without a lawyer present “over ten” times.<sup>53</sup>

Mr. Reynolds testified that after he had been at Area 2 for roughly twenty-four hours, Detective Boylan punched him in the face and ribs and then smacked him in the face with a flashlight, which caused a chipped left upper tooth.<sup>54</sup> This tooth was visibly chipped at the time of the suppression hearing.<sup>55</sup>

Mr. Reynolds testified that after the beating, he continued to insist on calling his mother so she could have a lawyer present for him. After again demanding a lawyer, Mr. Reynolds was not beaten again, but the evening before the statement was signed, one of the detectives<sup>56</sup> promised him that if he signed the statement and testified against Sherman Johnson, Mr. Reynolds and Michelle Clopton would be placed in a witness protection program and they would not be charged with a crime.<sup>57</sup>

He was only allowed to use the restroom once during the time he was held at Area 2, and he testified that he was not fed the more than two and a half days he was held there.<sup>58</sup> Mr. Reynolds testified that he told ASA Lydon that he had been fed and treated well because Detective

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<sup>49</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-75 (TCROP 283).

<sup>50</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-80 (TCROP 288).

<sup>51</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-80 (TCROP 288).

<sup>52</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-81 (TCROP 289).

<sup>53</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-80 to C-81 (TCROP 289).

<sup>54</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-83 to C-84 (TCROP 291-292).

<sup>55</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-85 (TCROP 293).

<sup>56</sup> Reynolds frequently confused the names of the detectives throughout his testimony, and openly acknowledged that he could not remember names. Reynolds Motion to Suppress Hearing (March 20, 1997) at C-79 (TCROP 287). *See also* testimony of ASA Lydon at A-87 and A-151 (TCROP 100, 164).

<sup>57</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-114 to C-115 (TCROP 322-323).

<sup>58</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-80 to C-81, C-88 (TCROP 288-289, 296).

McDermott instructed Mr. Reynolds to do so.<sup>59</sup> He also told ASA Lydon that he was not given access to a lawyer.<sup>60</sup> In Mr. Reynolds' booking picture, his mouth was closed and thus his teeth were not visible. Mr. Reynolds testified that he did not tell the intake nurse at the jail about his chipped tooth or the beatings he received at the hands of Detectives McDermott and Boylan because he was told by Detectives McDermott and Boylan that doing so would result in him not being placed in a witness protection program.

6. Testimony of Clemmie Collins

Ms. Collins was the landlord for the 5555 West Quincy building while Ms. Clopton and Ms. Head lived there. Ms. Collins testified that she saw Ms. Head, Mr. Reynolds, and Ms. Clopton being lead out of her building the evening of May 23, 1996. Further, she remembered that it was May 23 because she had an appointment with Ms. Head at the Department of Housing and Urban Development to renew her Section 8 stipend on the following day, Friday, May 24.<sup>61</sup> Ms. Collins testified that Ms. Head missed that meeting because Ms. Head was in custody. On cross-examination, Collins testified that she wasn't sure the event she witnessed was in the early, middle or late part of May, or even in May at all. She testified she had known Kimberly Head all her life, and Head's mother is her first cousin.<sup>62</sup>

7. Testimony of Detective Michael McDermott

The testimony of Detective McDermott was limited to an identification of Mr. Reynolds and denials of the following: threatening Mr. Reynolds' and Ms. Clopton's baby; telling Mr. Reynolds to tell ASA Lydon that he was fed; striking Mr. Reynolds in the face; seeing anyone strike Mr. Reynolds; Mr. Reynolds indicating that he did not wish to speak with Detective McDermott; and making promises to Mr. Reynolds that if Mr. Reynolds cooperated then he would be placed into the witness protection program.<sup>63</sup>

8. Testimony of Cermak Hospital Jail Intake Paramedic Carol Kozlowski Warner

Ms. Warner testified that she processed Mr. Reynolds into the jail on May 27, 1996 and would have asked him a series of questions about his health, including whether he had any dental problems. He reported none. She testified on cross-examination that she had no personal recollection of Mr. Reynolds and had seen thousands of prisoners over the past three years, and her testimony was based on what she had marked on Mr. Reynolds' intake form.

**B. Trial**

1. Testimony of Kimberly Head

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<sup>59</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at C-114 to C-115 (TCROP 322-323).

<sup>60</sup> Reynolds Motion to Suppress Hearing (March 20, 1997), at C-102 (TCROP 310).

<sup>61</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at D-8 (TCROP 333).

<sup>62</sup> Reynolds Motion to Suppress Hearing (March 20, 1997) at D11-D15 (TCROP 336-340).

<sup>63</sup> *Id* at D-24 to D-30 (TCROP 349-355.)

Ms. Head testified at trial that she pled guilty to first degree murder in connection with the death of Dora Cobb. In exchange for her guilty plea and testimony against the other defendants, prosecutors recommended to the court a reduced sentence of 25 years.<sup>64</sup>

Ms. Head testified that, during her questioning by Detectives McDermott and Boylan, she repeatedly asked for a lawyer to be present, but the detectives ignored her request, pretending as if they did not hear her or leaving the room only to come back later.<sup>65</sup> She repeatedly stated that she did not know anything about the murder, and that the detectives responded “you better say what we want you to say or [we]’ll make sure you get the electric chair.”<sup>66</sup> They also told her that she would never see her son or grandbabies again and that they would do anything to get Sherman Johnson.<sup>67</sup> Further, while in police custody, Ms. Head was not allowed to use the restroom, her need to do so resulting in her being forced to urinate in a trash can in her interview room.<sup>68</sup>

## 2. Testimony of Detective McDermott

Detective McDermott’s testimony was relatively short, and pertained mostly to the process of determining who the suspects were in the investigation.

Detective McDermott contradicted Ms. Head’s testimony that she was not allowed to use the restroom.<sup>69</sup> However, in response to Ms. Head’s testimony that he threatened her with the electric chair, he responded that “[w]e did have conversations about the serious nature of the charge, possible penalties, the ramifications, and so forth; yes, we did.”<sup>70</sup> He testified that, at Ms. Head’s request, they went and clandestinely picked up her son, Adonis Head, for his safety because he was still at a drug house run by Sherman Johnson.<sup>71</sup> At no point in his testimony did Detective McDermott deny that he and Detective Boylan ignored Ms. Head’s request for a lawyer.<sup>72</sup>

Detective McDermott denied that the suspects were brought to Area 2 the night of May 23, and testified that they were brought in on May 24.

## 3. Testimony of ASA Lydon

ASA Lydon’s testimony largely recounted the process of taking the defendants’ statements. During his testimony, ASA Lydon stated that he informed Mr. Reynolds of his *Miranda* rights,

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<sup>64</sup> See Trial Transcript 1 of 2 at H-155 to H-156 (TCROP 1088-1089).

<sup>65</sup> *Id.* at H-211 to H-212 (TCROP 1144-1145).

<sup>66</sup> *Id.* at H-213 to H-214 (TCROP 1146-1147).

<sup>67</sup> *Id.*

<sup>68</sup> *Id.* at H-213 (TCROP 1146).

<sup>69</sup> See Trial Transcript 2 of 2 at I-11 (TCROP 1254).

<sup>70</sup> *Id.* at I-12 (TCROP 1255).

<sup>71</sup> *Id.* at I-11-I-12 (TCROP 1254-1255).

<sup>72</sup> See *id.* at I-2 to I-19 (TCROP 1245-1262).

that Mr. Reynolds said he was making the statement voluntarily, and that Mr. Reynolds seemed to know what he was doing.<sup>73</sup>

ASA Lydon testified that Mr. Reynolds had already made a statement to the police before he had arrived, and that he prepared Mr. Reynolds' handwritten statement after speaking with Mr. Reynolds several more times.<sup>74</sup> He testified that he helped Mr. Reynolds correct inaccuracies in the handwritten statement that he, ASA Lydon, prepared.

#### 4. Testimony of Ebony Reynolds

Mr. Reynolds' trial testimony was more limited in breadth than his suppression hearing testimony, and focused more on promises of leniency than physical abuse. According to Mr. Reynolds, he heard that his girlfriend, Michelle Clopton, may or may not have been involved with the murder and that if he signed this statement then they would both be placed in witness protection.<sup>75</sup> Mr. Reynolds was cross-examined extensively on why he did not bring up the alleged torture to ASA Lydon or the intake nurse at the jail. Mr. Reynolds alleged that Detectives Boylan and McDermott told him that if he said anything about the abuse or the promises made to him, then he would no longer be eligible for witness protection.<sup>76</sup>

#### 5. Testimony of Medical Examiner Edmond Donahue

Mr. Donahue testified that Ms. Cobb died from three gunshot wounds to the head.<sup>77</sup> On cross examination and re-direct testimony, Mr. Donahue testified that he found no bruises on Cobb's upper or lower back or any rips or tears to the clothing covering her back, but that it was possible her back could have been hit with a stick and not show any marks.<sup>78</sup>

### IV. **Post-Conviction Proceedings**

Mr. Reynolds filed a *pro se* motion<sup>79</sup> for a new trial based on ineffective assistance of counsel, which was denied.<sup>80</sup> In his motion, Mr. Reynolds argued that the public defenders staffed on his case did not raise critical issues on his motion to suppress, and recounted how the coroner did not find evidence that Ms. Dora Cobb was beaten, which the state argued Mr. Reynolds had

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<sup>73</sup> *Id.* at I-24 to I-26 (TCROP 1267-1269).

<sup>74</sup> *Id.* at I-28 (TCROP 1271).

<sup>75</sup> *Id.* at I-74 to I-76 (TCROP 1317-1319).

<sup>76</sup> *Id.* at I-94 (TCROP 1337).

<sup>77</sup> H-272 (TCROP 1205)

<sup>78</sup> *Id.* at H-277 (TCROP 1210) AND H-282 (TCROP 1215)

<sup>79</sup> *See* EXHIBIT 5: Ebony Reynolds *pro se* Motion for New Trial

<sup>80</sup> *See* Transcript of December 17, 1999 at K-1 to K-7 (TCROP 1463-1469); *see also* Transcript of January 6, 2000, A1-A9 (TCROP 1475-1484).

done.<sup>81</sup> Mr. Reynolds' counsel also filed a motion for a new trial, arguing it was error not to suppress his confession.<sup>82</sup>

In Mr. Reynolds' appeal, Mr. Reynolds did not take issue with the denial of the suppression motion or otherwise bring up the allegations of torture, only challenging that his life sentence that exceeded statutory maximum sentence (of 20 to 60 years), without a jury's determination of aggravating factors, violated his due process rights.<sup>83</sup> In February 2002, the appellate court found that the aggravating factors (that he had contracted to murder and that the murder was part of a cold, calculated and premeditated plan) were not proved beyond a reasonable doubt and remanded his case for resentencing.<sup>84</sup> In December 2003, the Supreme Court of Illinois denied the petition of appeal based on developing case law and directed the appellate court to vacate that determination.<sup>85</sup> In July 2004, the trial court reaffirmed its sentencing.<sup>86</sup>

Although the court file does not contain Mr. Reynolds brief, in 2004, he and Sherman Johnson litigated a post-conviction motions for relief on the basis that Ms. Head's testimony against him was coerced.<sup>87</sup> The petitions were eventually denied.

Mr. Reynolds also filed in 2009 a *pro se* post-conviction petition<sup>88</sup> again arguing sentencing issues. The petition was denied by the court by written order.<sup>89</sup> The appellate court affirmed the denial on March 21, 2011.<sup>90</sup> Coercion was apparently not argued.

In 2018, Mr. Reynolds again filed a PC petition arguing his sentence was unconstitutional.<sup>91</sup> It was denied by Judge Gaughan in May, 2018.<sup>92</sup> Coercion was apparently not argued.

## **V. TIRC Proceedings**

### **A. TIRC Claim**

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<sup>81</sup> Motion for New Trial. A-3and Testimony of T. Johnson in H-80.

<sup>82</sup> See EXHIBIT 6: Attorney Charles Buchholz' Motion for New Trial.

<sup>83</sup> See EXHIBIT 7: *State of Illinois v. Reynolds*, 764 N.E.2d 1135 (Ill.App. 1 Dist. Feb. 8, 2002).

<sup>84</sup> See *Id.*, at 1141.

<sup>85</sup> See *People v. Reynolds*, 206 Ill. 2d 635 (2003).

<sup>86</sup> See EXHIBIT 8: *People v. Reynolds*, 348 Ill. App. 3d 1090 (2004).

<sup>87</sup> See Transcripts of June 30, 2004 proceedings, II-1-II-40 (TCROP 1640-1679).

<sup>88</sup> See EXHIBIT 9: Reynolds 2009

Post-Conviction Petition.

<sup>89</sup> See EXHIBIT 10: Judge Gaughan Dec. 9, 2009 Order denying petition; see also Transcript of December 9, 2009 proceedings at C-1 (TCROP .

<sup>90</sup> See EXHIBIT 12: *People v. Reynolds*, 1-10-0119 (Ill. Apel. Ct, 1 Dist, 1 Div., 2011).

<sup>91</sup> See EXHIBIT 14: 2018 Reynolds Petition for Post-Conviction Relief (partial copy only).

<sup>92</sup> See EXHIBIT 15: 2018 Gauhan Order Denying Petition.

Mr. Reynolds submitted his claim form to the Commission on February 29, 2012.<sup>93</sup> On his claim form, Mr. Reynolds claims that he was put inside a holding cell with one hand handcuffed to the wall and was questioned. When he did not answer the way officers wanted him to, he was hit in the face many times, verbally berated, threatened with abuse on his unborn daughter and girlfriend, and his tooth was chipped.

## **B. TIRC Interview**

On May 25, 2021, Mr. Reynolds was interviewed by Commission staff. During the interview, Mr. Reynolds consistently recalled that he was denied the ability to call his mother and an attorney, and that he signed the statement prepared by ASA Lydon because he was thinking about his unborn baby and girlfriend Michelle Clopton, including the fact that the detectives had already threatened to “knock the baby out.”<sup>94</sup>

When asked why he did not bring up the physical and psychological abuse with ASA Lydon and/or the intake nurse, Mr. Reynolds explained that he felt that neither would do anything about his treatment from detectives. Additionally, once he was at the jail, he asserted that he felt that he was “out of the danger zone.”<sup>95</sup>

Furthermore, Mr. Reynolds explained that his public defender had also decided that given the fact that his motion to suppress his written confession because of coercion was unsuccessful, it would not be worthwhile to mention these claims of physical and psychological abuse again, including at trial.<sup>96</sup>

## **VI. Pattern and Practice Evidence/Credibility Considerations**

### **A. Allegations Against Detective Michael McDermott**

A number of courts and investigative bodies have previously found that Detective McDermott engaged in abuse of suspects and gave false testimony regarding such abuse.

#### **1. Alfonso Pinex**

Special Prosecutor Edward J. Egan concluded that there was proof beyond a reasonable doubt that Detective McDermott and Detective Anthony Maslanka committed aggravated battery against Alfonso Pinex by beating him on or about June 28, 1995, at Area 2 to get him to sign a statement admitting to the murder of Eddie McKeever. Pinex accused Detective McDermott of hitting him in the ribs and holding him while Maslanka beat him (including near both his eyes). Among the evidence Egan cited was the finding by the trial judge that Detective McDermott and Maslanka were not credible in their testimony that Pinex had not asked for a lawyer (Pinex, who had an arrest warrant out for him, had already arranged with Area 1 to surrender the following day). Photographs taken of Pinex at Area 2 showed a bloodshot eye and the trial judge suppressed

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<sup>93</sup> See EXHIBIT 13: TIRC Claim of Ebony Reynolds.

<sup>94</sup> See EXHIBIT 1: Reynolds’ TIRC Interview beginning at 50:52.

<sup>95</sup> *Id.* at 38:57.

<sup>96</sup> *Id.* at 58:40.

the signed statement on Miranda grounds but did not reach the subject of involuntary confession or beating. Egan noted that a prison doctor on June 30, 1985, documented Pinex's complaints of blurred vision and diagnosed bilateral subconjunctive hemorrhages. Another prison doctor told the special prosecutor these injuries were consistent with blows to the head.

Detective McDermott invoked his Fifth Amendment right against self-incrimination when Egan attempted to question him about Pinex. Egan also concluded there was evidence beyond a reasonable doubt of Detective McDermott's perjury and obstruction of justice for testifying falsely at Pinex's suppression hearing.<sup>97</sup>

## 2. Burge Trial Testimony regarding Shadeed Mu'min

A federal judge ruled that Detective McDermott committed perjury regarding Pinex and that, at a minimum, he gave testimony at Police Commander Jon Burge's criminal prosecution "that was inconsistent with his grand jury testimony."<sup>98</sup> The judge was referring to the June 14, 2010 trial testimony of Detective McDermott about Burge's interactions with Shadeed Mu'min. On that date, Detective McDermott testified Burge had pointed a gun in the direction of Mu'min's side of the room, that they had a "scuffle," and that Burge had placed something in front of Mu'min's face. Prosecutors impeached Detective McDermott with his grand jury testimony in which he stated Burge pointed the gun directly at Mu'min and placed a bag over his head in order to restrict Mu'min's breathing and elicit a confession.<sup>99</sup>

## 3. Danny Smith probable cause testimony

On March 23, 1990, a trial judge rejected Detective McDermott's testimony that he and four other officers went to the house of a suspect, Danny Smith, merely to verify Smith's address before seeking a warrant. Instead, the judge found that Detective McDermott had arrested Smith without probable cause on a pretext to put him in a lineup.<sup>100</sup>

## 4. Eric Caine Civil Suit Testimony

On March 28, 2011, Detective McDermott invoked his right against self-incrimination when called to testify at a deposition in a civil suit filed by Eric Caine against Jon Burge and other officers.<sup>101</sup> On July 24, 2013, the Chicago City Council voted to settle the lawsuit for \$10 million.<sup>102</sup> Mr. Caine, a co-defendant of Aaron Patterson in the 1986 Vincent and Rafaela Sanchez murders, alleged he was punched and threatened to elicit a confession.<sup>103</sup> Mr. Caine's confession

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<sup>97</sup> *Report of the Special State's Attorney* ("Egan Report"), 275-290.

<sup>98</sup> *See U.S. v. Burge*, Memorandum Opinion and Order, 5 (N.D. Ill. Jan. 17, 2014) (J. Lefkow) .

<sup>99</sup> Matthew Walberg, "Burge witness pulls back from earlier testimony," *Chicago Tribune*, June 14, 2010.

<sup>100</sup> *People v. Smith*, 232 Ill. App.3d 121, 125 (1st Dist. March 23, 1990).

<sup>101</sup> *Caine v. Burge, et al*, Deposition of Michael McDermott, March 28, 2011.

<sup>102</sup> City of Chicago Settlement Order No. 2013-485.

<sup>103</sup> Jason Meisner, "Another Burge case, another \$10 million" *Chicago Tribune* July 19, 2013, available at [http://articles.chicagotribune.com/2013-07-19/news/ct-met-burge-million-dollar-settlement-20130719\\_1\\_eric-caine-burge-case-police-torture](http://articles.chicagotribune.com/2013-07-19/news/ct-met-burge-million-dollar-settlement-20130719_1_eric-caine-burge-case-police-torture).

was thrown out in 2011 by Judge William Hooks, and prosecutors declined to re prosecute. In 2012, a judge granted Mr. Caine's innocence request.<sup>104</sup>

#### 5. Patterson, Orange, Hobley and Howard Civil Suits

On September 19, 2008, Detective McDermott invoked his Fifth Amendment right against self-incrimination when asked about a number of police investigations during a deposition in civil suits brought against Jon Burge by plaintiffs Aaron Patterson, Leroy Orange, Madison Hobley, Stanley Howard and Darrell Cannon.<sup>105</sup>

#### 6. Interrogation of Keith Mitchell

In *People v. Mitchell*, the Illinois Appellate Court described Detective McDermott as “an admitted perjurer,” and cited the unreliability of his trial testimony that contended a 15-year-old boy initiated a confession when his mother stepped out of the interrogation room. The mother had made detectives promise not to question him in her absence.<sup>106</sup> The court found that the special prosecutor's report on Detective McDermott and Pinex was highly relevant, in that, “the evidence of McDermott's perjury in similar cases involving alleged confessions significantly shifts the balance of credibility in the contest between McDermott's testimony and [Mitchell's and his mother's].”<sup>107</sup> The court then remanded the case for a new suppression hearing.

### **B. Allegations Against Detective James Boylan**

A review of TIRC records indicates that Detective Boylan had at least 24 complaints filed against him. Instances with violent or racist components include:

- Detective Boylan was accused of kicking and punching his son, but the complaint to a hotline was later deemed unfounded after both Detective Boylan and his son denied the event ever happened;<sup>108</sup>
- Detective Boylan, while intoxicated, allegedly cut off another car in traffic containing another (African American) officer, the officer's son, and a civilian, fired at the other officer's vehicle, and chased the car off the exit ramp;<sup>109</sup>
- Numerous incidences of alleged racist comments;<sup>110</sup>

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<sup>104</sup> *Id.*

<sup>105</sup> Deposition of Michael McDermott, Sept. 19, 2008, Case Nos. 03-C-4433, 04-C-168, 03-C-3678, 03-C-8481, 05-C-2192.

<sup>106</sup> *People v. Mitchell*, 2012 IL App (1<sup>st</sup>) 100907. p. 9 (May 16, 2012).

<sup>107</sup> *Id.* at ¶62.

<sup>108</sup> See EXHIBIT 16: TIRC Summary of complaints made against Det. James Boyland (CR 234042).

<sup>109</sup> *Id.* (CR 186154).

<sup>110</sup> *Id.* (CR 188744 and 216799).

- In circumstances very similar to Mr. Reynolds’, a young man filed a complaint alleging that he was taken to Area 2, abused by Detective Boylan, and not allowed to contact his family;<sup>111</sup> and
- At least one other instance of similar abuse at Area 2 during an interrogation.<sup>112</sup>

### Standard of Decision

Section 40(d) of the Illinois Torture Inquiry and Relief Commission Act (the “TIRC Act”) permits the Commission to conduct inquiries into claims of torture.<sup>113</sup>

“‘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.”<sup>114</sup>

“Torture” is defined as 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.<sup>115</sup>

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>116</sup>

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 interpreted Section 45(c), through its administrative rules, as not requiring that it be more likely than not that any particular fact occurred, but rather that there is sufficient evidence of torture to merit judicial review.<sup>117</sup>

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<sup>111</sup> *Id.* (CR 198285).

<sup>112</sup> *Id.* (CR 206496).

<sup>113</sup> *See* 775 ILCS 40/40(d).

<sup>114</sup> 775 ILCS 40/5 (emphasis added).

<sup>115</sup> *See* 775 ILCS 40/5(1).

<sup>116</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>117</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

## Analysis

### **VII. Jurisdiction**

The TIRC Act authorizes the Commission to investigate “claims of torture,” which are defined to require:

- i. torture was used to have the person confess to a crime for which the person was convicted,
- ii. tortured confession was used to obtain the conviction, and
- iii. there is credible evidence of torture.

#### **A. Torture Was Adequately Alleged**

Factors for: Mr. Reynolds explained that he signed the written statement confessing to murder, in response to beatings and statements from the detectives that “you’re going to tell us what the fuck I want to know,” that he was held more than two and a half days without food, that the detectives made physical threats against his girlfriend and their unborn baby. Moreover, he was also promised witness protection if he would sign the written statement and testify against Sherman Johnson.

“Torture” is defined as both physical and mental suffering.<sup>118</sup> The beating, the chipped tooth, the food deprivation and the threats against his girlfriend and his unborn baby constitute physical and mental suffering.

Factors against: Mr. Reynolds also testified that if he signed the written statements, he would be given witness protection and would be let go.<sup>119</sup> These promises are arguably not mental or physical suffering but rather relief from such pain. It is unclear whether Mr. Reynolds weighed these promises more than the physical harm in his decision to sign the written confession, although he explained in his interview that he was acting solely out of concern for his safety and that of his girlfriend and unborn child. Even if Mr. Reynolds was persuaded more by the promises than the physical abuse, the promises’ effectiveness were enhanced by physical abuse and threats. It is difficult to separate the positive inducement from the physical and mental abuse. Accordingly, we believe it is reasonable to conclude that the alleged torture was influential in obtaining the confession.

#### **B. The Allegedly Coerced Confession Was Used to Obtain the Conviction**

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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.

<sup>118</sup> 775 ILCS 40/5(1)).

<sup>119</sup> *See* Transcript of March 20, 1996 at C-89 (TCROP 297). *See also* TIRC Interview of Reynolds.

During Mr. Reynolds' trial, a written confession was read into evidence<sup>120</sup> on examination and cross-examination and subsequently cited by the prosecution for why he should be convicted in their closing statements.<sup>121</sup> The prosecutor stated in her closing argument that Mr. Reynolds "told you himself in his own statement exactly what happened and how he was a partner in crime... [H]e told you in his statement that he was offered money ... to beat [Dora Cobb] ... to shoot her... and they agreed to do this... And he himself told you through his statement that ... he's the one who hit [Cobb] on the back... opening the door for his partner to complete that job ... Ladies and gentlemen, this defendant is responsible for her murder... Hold him responsible for his actions. Find him guilty of the first degree murder of Dora Cobb."<sup>122</sup>

The court records are clear in how powerfully the prosecution weaved his written statement into the evidence against him and into their recommendation that they find him guilty of the crime, which the jury did. It is difficult to imagine how any jury would rule otherwise given the strength of the coerced confession.

### C. Credible Evidence of Torture

There is substantial evidence here that Mr. Reynolds was tortured while in police custody, and that his torture led directly to his signing of a false confession. Mr. Reynolds' consistent recollection of the facts, including the violence threatened upon his unborn child and girlfriend, and the physical evidence of his chipped tooth consistent with his testimony of being beaten by police while in custody certainly provides meaningful evidence of torture here. Those facts do not stand alone, though: the two officers involved in the alleged torture have histories of doing exactly what Mr. Reynolds testified happened to him, including countless allegations of violence, recklessness, and even perjury.

While there are, predictably, certain inconsistencies in Mr. Reynolds' story, they do not alter the significant weight of the evidence in favor of a finding here. While the jail intake nurse testified that she did not see a chipped tooth and Mr. Reynolds did not report any injuries, Mr. Reynolds explained that he purposefully did not reveal his injuries because Detectives Boylan and McDermott told him that their promises of leniency would no longer apply if he spoke up about the abuse. Mr. Reynolds' concern here is somewhat corroborated by the physical evidence, which shows that Mr. Reynolds tooth was chipped at the suppression hearing.<sup>123</sup> Further, Ms. Head and Ms. Clopton gave strikingly similar accounts of promises of leniency that were conditioned upon the existence of those promises not being disclosed.

Mr. Reynolds has some other inconsistency issues, particularly the general vagueness of his story at times. In addition, he has been inconsistent in his testimony regarding which police detective struck him. In his trial hearing, after some difficulty identifying the detective, he testified that Detective Boylan struck him.<sup>124</sup> However, during his May 2021 interview, he testified that

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<sup>120</sup> See Trial Transcript I-36 to I-42 (TCROP 1279-1285).

<sup>121</sup> See Trial Transcript of Nov. 10, 1999 at J-13 (1386).

<sup>122</sup> See Trial Transcript of Nov. 10, 1999 (TCROP 1386-1392).

<sup>123</sup> See Suppression Hearing Testimony of March 20, 1996 at C-83-85 (TCROP 291-293).

<sup>124</sup> *Id.* at C-82 (TCROP 290).

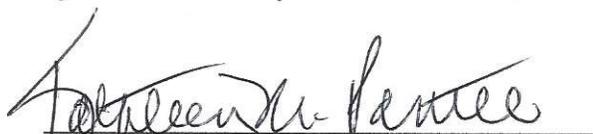
Detective McDermott was the man that punched him in the ribs and hit him in the face with a flashlight.<sup>125</sup> Nonetheless, neither impacts the analysis here and is understandable, including at least because his May 2021 interview was more than 25 years after the abuse. Despite his challenge naming Detective Boylan at his trial, he clearly identified in his May 2021 interview that it was either Detective Boylan or McDermott, explaining that the police detective that struck him were not the detectives that accompanied Assistant State Attorney James Lydon who had compiled the handwritten confession.<sup>126</sup> In ASA Lydon's testimony during the motion to suppress hearing, ASA Lydon testified that he was accompanied by Detectives Alfini and Higgins in his two visits with Mr. Reynolds. In addition, he initially made his complaint very shortly after the incident, with sufficient specifics that his attorney sought to suppress his confession. Over 25 years later, Mr. Reynolds is making the same complaint, down to the details regarding the detectives threatening the child that Ms. Clopton was carrying. Further, details of his story have been consistently corroborated by other witnesses. Examples of such details include: Detectives McDermott and Boylan ignoring requests for the assistance of counsel; not allowing restroom breaks; not informing suspects of *Miranda* rights; and making promises of leniency that were conditioned upon those promises being kept a secret from everyone but the detectives who made them.

Both Detective McDermott and Detective Boylan have lengthy, consistent, and substantiated histories of complaints against them. Further, many of the complaints against the detectives were for behavior that was almost identical to the kind alleged by Mr. Reynolds. Thus, the pattern and practice evidence weighs heavily in favor of finding that sufficient evidence exists that Mr. Reynolds was another victim of Detective McDermott, Detective Boylan, or both.

Given Mr. Reynolds' repeated, relatively consistent complaints about the abuse, corroboration of many of the details of his story, and strong reason to distrust Detectives Boylan and McDermott's accounts, there is sufficient evidence meriting judicial review of this case.

The Commission therefore concludes that there is sufficient evidence of torture to conclude by a preponderance of the evidence that the claim of torture merits judicial review and instructs its Executive Director to refer the claim to the Chief Judge of Cook County for further review.

Date: Aug 19, 2021

  
Kathleen Pantle  
Acting/Alternate Chair  
Illinois Torture Inquiry and Relief  
Commission

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<sup>125</sup> *Id.* at C-85 (TCROP 293).

<sup>126</sup> *See* Suppression Hearing Testimony of March 20, 1996 at C-104 (TCROP 312).