



Board of Commissioners of Cook County

118 North Clark Street
Chicago, IL

Legislation Details

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Title:	PROPOSED RESOLUTION				

IN SUPPORT OF FAIRNESS AND INTEGRITY OF THE CRIMINAL PROCEEDINGS FOR THOSE WITH ALLEGATIONS THAT THEY WERE TORTURED BY THE DISCIPLES OF THE NOTORIOUS FORMER COMMANDER JON BURGE

WHEREAS, Cook County is a home rule unit of local government pursuant to Article VII Section 6(a) of the 1970 Illinois Constitution, and as such may exercise any power and perform any function pertaining to its government and affairs; and

WHEREAS, former Chicago Police Commander Jon Burge and the detectives under his command systematically engaged in acts of torture, physical abuse, and coercion of Black and Latinx people at Area 2 and 3 Police Headquarters from 1972 through 1991; and

WHEREAS, these acts of torture included electrically shocking individuals on their genitals, lips and ears with an electric shock box or cattle prod; suffocating individuals with plastic bags; subjecting individuals to mock execution; physical beatings with telephone books, rubber hoses, miniature baseball bats; punching and kicking people about their bodies, pulling their hair, and other forms of physical and psychological abuse and coercion; and

WHEREAS, these acts of torture, physical abuse and coercion were deployed to extract confessions from individuals which were subsequently admitted against them in their criminal prosecutions resulting in their wrongful convictions; and

WHEREAS, the City of Chicago has recognized this pattern and practice of torture when passing the historic reparations legislation for Burge torture survivors in 2015. This legislation followed admissions made by the City of Chicago in 1992 when severing Burge from the Chicago Police Department, wherein the City acknowledged that Burge and the detectives under his command engaged in "an astounding pattern or plan" to torture certain suspects. Burge was also convicted in federal court for perjury and obstruction of justice for lying about the acts of tortured he and his detectives committed in 2010; and

WHEREAS, this racially motivated pattern and practice of torture was not confined to Burge alone. In 2006, appointed Special State's Attorneys Edward Egan and Robert Boyle released a Report documenting their four year investigation in which they found that there were "many cases" in which it was reasonable to believe that Black custodial suspects were abused by Burge and officers under his command at Area 2 and 3 Police Headquarters, and specifically found that in addition to Burge, Detectives Michael McDermott, Anthony Maslanka, James Lotito, and Ronald Boffo engaged in acts of abuse beyond a reasonable doubt. The Special State's Attorneys also concluded that Burge was "guilty [of] abus[ing] persons with impunity," and that it therefore "necessarily follows that a number of those serving under his command recognized that if their commander could abuse persons with impunity, so could they." The Seventh Circuit Court of Appeals also noted in upholding Burge's conviction in U.S. v. Burge, 711 F.3d 803 (2013) that torture, physical abuse, and coercive interrogations swiftly produced confessions, closed cases, and were rewarded with commendations

and promotions, and therefore it was expedient for these officers to engage in these forms of “horrific” abuse; and

WHEREAS, the City of Chicago eventually terminated Burge from the Chicago Police Department in 1993, no detective or subordinate (his disciples) under his command was disciplined for their participation in this pattern and practice of torture, physical abuse, and coercion. Moreover, neither the City of Chicago nor the Chicago Police Department conducted any investigation to determine all cases where Burge or his disciples engaged in acts of torture, physical abuse, or coercion; and

WHEREAS, the Cook County State’s Attorney’s Office (CCSAO) also failed to take necessary action to stop the torture and hold Burge and his disciples responsible despite credible allegations that Burge and his men were engaging in acts of torture throughout the 1970s, 80s and 90s. The CCSAO also never initiated its’ own investigation into this criminal conduct and instead persistently denied these allegations and used extracted confessions to secure convictions, lengthy prison sentences, and in some cases, the death penalty; and

WHEREAS, Burge’s disciples were never dissuaded from continuing to engage in acts of torture, physical abuse and coercion in securing confessions and convictions, and therefore continued to enjoy impunity for their official misconduct, even after Burge was terminated from the Chicago Police Department; and

WHEREAS, several of Burge disciples, including but not limited to, detectives Kenneth Boudreau, William Foley, John Halloran, Michael Kill, Anthony Maslanka, Michael Mc Dermott, Daniel McWeeny, James O’Brien, John Palladino, among others, were detectives who served under Burge when he became the Commander of Area 3 Police Headquarters in 1988 and several of these detectives have recently been found by the Illinois Appellate Court, Circuit Courts of Cook County or by the Illinois Torture Inquiry and Relief Commission to have engaged in acts of torture, physical abuse or coercion after Burge was terminated from the Chicago Police Department in 1993; and

WHEREAS, a Circuit Court of Cook County in 2022 found that: 1) Detectives O’Brien and Halloran “intentionally tortured him [Mr. Pittman] while in police custody,” Marcellous Pittman in 2001; 2) “inflicted severe mental and physical pain and suffering” on Mr. Pittman; 3) O’Brien and Halloran lacked credibility in denying Mr. Pittman was tortured given their suspect testimony and “the sheer weight of other claims” of torture lodged against these detectives, leading that Court to suppress Mr. Pittman’s confession and grant him a new trial in People v. Pittman, 01 CR 28900-01 (Cir. Ct of Cook County, 2022). Detective O’Brien previously was found by a Circuit Court of Cook County to have physically coerced Victor Safford with Detectives Paladino and Maslanka, all of whom plead the 5th Amendment against self-incrimination in response to questions in a hearing resulting in the vacation of Mr. Safford’s conviction in 2009. Both O’Brien and Halloran have been accused of engaging in acts of torture, physical abuse, or coercion by over 80 people, and many of these people have been exonerated or received reparations from the City of Chicago for the torture or physical abuse they endured; and

WHEREAS, a Circuit Court of Cook County found there was no question Detectives Boudreau and Kill engaged in pattern and practice of physical abuse in People v. Plummer, 91 CR 21451 (Cir. Ct. of Cook County, 2019), and the Illinois Appellate Court found that there was evidence demonstrating Kill and Boudreau engaged in a pattern of systemic abuse significantly undercutting the Appellate Court’s confidence in Mr. Plummer’s conviction. Another Circuit Court ruled that Detective Kill had “an extensive history of allegations of abusing those in custody in order to obtain confessions,” when finding that Kill and Area 3 Detective Victor Breska, who also served under Burge’s command, physically coerced Gerald Reed into confessing in People v. Reed, 90 CR 2584601 (Cir. Ct. of Cook County, 2018). Both Boudreau and Kill have been accused of engaging in acts of torture or physical abuse by over 70 people, and many of these people have been exonerated or acquitted despite their coerced confessions or received reparations from the City of Chicago for the torture or physical abuse they endured; and

WHEREAS, in December of 2017, the Cook County Board was presented with evidence demonstrating that Burge’s disciples continued to engage in acts of coercion after Burge was terminated from the Chicago Police Department in the Englewood 4 cases. Harold Richardson,

Michael Saunders, Terrell Swift, and Vincent Thames were interrogated and forced to falsely confess to the rape and murder of Nina Glover at Area 1 Police Headquarters in 1994. Detectives Boudreau and William Foley, who also worked under Burge's command at Area 3 Police Headquarters, and other Chicago Police detectives were accused of using physical violence, threats, false promises of leniency, and other undue pressure to coerce each of these innocent Black teens into falsely confessing to these crimes leading to their wrongful convictions. Subsequent DNA testing demonstrated the Englewood 4 were not responsible for these crimes and therefore forced to give false confessions to them. The DNA evidence, in fact, pointed to a person who had been convicted of sexual violence and another murder; and

WHEREAS, decades later during a federal investigation that included the Englewood 4 cases, Terence Johnson, a former Assistant Cook County State's Attorney, who was working in the felony review unit of the CCSAO, was responsible for taking the incriminating statements from some of the Englewood 4. Mr. Johnson informed FBI agents that: 1) the Area 1 Chicago Police detectives "coached and fed the suspects information during the court reported and handwritten statements;" 2) Detective Boudreau rehearsed a statement with one of the suspects before the court reporter recorded it and during these rehearsals, Boudreau corrected the suspect's responses making the responses more consistent with the statements elicited from the other suspects; 3) ASA Johnson "worried that the statements were fabricated because they were too consistent and the cops fed the suspects information during the statements;" 4) ASA Johnson believed the confessions "did not make sense," the motive attributed to Englewood 4 for killing Ms. Glover "did not make sense," and the only apparent reason the four were suspected of the crime was because of their "gang affiliation;" 5) ASA Johnson believed the motion to suppress hearing in the Englewood 4 cases were rigged after Area 1 Detectives "circulated a document that detailed what the detectives and ASAs should say when questioned regarding the circumstances of the Glover investigation," and told Johnson and another felony review ASA to read it before they testified, "so that they would all provide a consistent statement,"; and

WHEREAS, after the Englewood 4 were exonerated, they sued Detectives Boudreau, Foley and other Chicago Police Detectives, the City of Chicago and the County of Cook seeking compensations for their wrongful convictions, alleging that Boudreau, Foley, and other detectives coerced and fabricated their confessions in violation of their constitutional rights. The City of Chicago settled the Englewood 4's civil rights cases for an historic \$31 million in December of 2017. The Cook County Board also approved \$36.6 million settlement for the Englewood 4 with the County of Cook in 2017 and 2019, implicitly acknowledging responsibility for their coerced confessions; and

WHEREAS, in response to the Englewood 4 cases, Cook County State's Attorney Kimberly Foxx agreed to establish an independent, objective audit of cases involving the detectives implicated in the Englewood 4 cases, and specifically agreed that a person was eligible to have their claim reviewed by the audit if: 1) the person was convicted of homicide or sexual assault; 2) the police claimed the convicted person gave a confession to the crime, and 3) one of the Englewood 4 Detectives was involved in the criminal investigation of that crime; and

WHEREAS, the Cook County Board supports the objective audit of cases investigated by the detectives implicated in the Englewood 4 cases initiated by State's Attorney Foxx to ensure that the convictions investigated by the Englewood 4 detectives are fair, have integrity and are free from the illegal and tainted evidence caused by coercive interrogations; and

WHEREAS, the cases involving all of Burge's disciples are being handled by three different sets of prosecutors, including State's Attorney Foxx, Special State's Attorney Robert Milan, Special State's Attorney Myles O'Rourke, and therefore, are often treated on an individual, case by case, basis without any recognition that Burge's disciples participated in the pattern and practice of torture, physical abuse and coercion both during and after Burge's tenure; and

WHEREAS, the CCSAO and the Special Prosecutors continue to contest that Burge's disciples engaged in torture, physical abuse and/or coercion leading to extensive litigation at evidentiary hearings and/or appeals leading to the denial of relief to those who alleged they were coerced, only to have the Illinois Appellate Courts reverse the Circuit Court decisions and grant relief to those who claimed they were coerced, including but not limited to Marcellous Pittman, Johnny Plummer, Gerald

Reed, and Clayborn Smith; and

WHEREAS, this time and labor-intensive litigation continues to cause grievous harm to those who were tortured, abused, or coerced and their family members as people are languishing behind bars, stripped from their families and their communities, as result of wrongful convictions based in whole or in part on their illegal and immoral coerced confessions; and

WHEREAS, this on-going litigation also requires the exorbitant expenditure of taxpayer funds, particularly with respect to the Special State's Attorneys, who according to the Cook County Board's finance records, have been paid approximately \$8,527,488.17 from 2008 to the summer of 2022 to pursue this litigation; and

WHEREAS, given the decades of litigation and erosion of trust in the criminal legal system wrought by Burge disciples, resulting in Chicago being branded the false confession capital of the world; and

WHEREAS, the time has come to obtain a final resolution of all the cases investigated by Burge and his disciples; and

NOW THEREFORE BE IT RESOLVED, that the Criminal Justice Committee of the Cook County Board of Commissioners recommends that Cook County State's Attorney Kimberly Foxx, Special States' Attorneys Robert Milan and Myles O'Rourke agree to establish an independent and objective audit to review of all criminal convictions wherein Burge and his disciples participated in the investigation resulting in a confession, and that in agreeing to establish such an audit these prosecutors agree to work with defense counsel to ensure the fairness and integrity of this audit as State's Attorney Foxx did in establishing the audit for the Englewood 4 cases, and the Cook County Board provide the necessary funds to ensure this audit has the necessary staff and resources to efficiently and effectively conduct this audit of the cases.

Sponsors: STANLEY MOORE, BRANDON JOHNSON, JOSINA MORITA

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
2/9/2023	1	Board of Commissioners	refer	Pass