

**Submission to the UN Committee Against Torture on List of Issues
Prior to Reporting to the United States in Advance of its Sixth
Periodic Review**

**Alternative Report by the Chicago
Torture Justice Memorials on Survivors of Police
Torture in Chicago**

June 27, 2016

***Chicago Torture Justice Memorials (CTJM) aims to honor and to seek
justice for the survivors of Chicago police torture, their family members
and the African American communities affected by the torture.***

Joey Mogul and Shubra Ohri on behalf of CTJM
People's Law Office/1180 N. Milwaukee/Chicago, Illinois 60642
joeymogul@aol.com and sohri@peopleslawoffice.com

1) Introduction and Background of Burge Torture

As the UN Committee Against Torture has repeatedly noted,¹ former Police Commander Jon Burge and the officers under his command systematically tortured at least 110 African American men and women from 1972 to 1991 at Area 2 and 3 Police Headquarters in Chicago.² The racially motivated torture practices included suffocating people with plastic bags, electrically shocking people with electric shock boxes and cattle prods, suffocating people with plastic bags until they lost consciousness, holding loaded guns at people's heads and in their mouths, and beating people with rubber like objects and telephone books.³

For decades, officials at the local and federal level refused to take action to stop the torture and abuse, hold those responsible accountable, and provide necessary redress to those harmed in spite of concrete and credible evidence establishing the systemic torture practices.⁴ In response to civil society's organizing and civil litigation, in 1990, the Office of Professional Standards, an agency of the Chicago Police Department (CPD) that oversees police misconduct, released a study of over fifty of the alleged torture cases from 1972 to 1985 and found that "the preponderance of the evidence [showed] that abuse did occur and that it was systematic."⁵ The report further found: "The number of incidents in which [a police command member] is identified...lead[s] to only one conclusion. Particular command members were aware of the systematic abuse and perpetuated it either by actively participating...or failing to take any action to . . . end [it]."⁶ Jon Burge was subsequently fired from the CPD in 1993.

Despite this report and mountains of other evidence and ample admissions made by the City of Chicago that this pattern and practice of torture was committed by CPD detectives, no one from the CPD, including Burge, was ever criminally charged for

¹ U.N. Convention Against Torture, U.N. Committee Against Torture., *Concluding Observations on the second periodic reports of the United States of America*, U.N. Doc. CAT/C/USA/CO/2 ¶ 25 (July 25, 2006), U.N. Convention Against Torture, U.N. Committee Against Torture, *Concluding Observations on the third to fifth periodic reports of the United States of America*, U.N. Doc. CAT/C/USA/CO/3-5 ¶ 26 (Dec.19, 2014).

² CHICAGO JUSTICE MEMORIALS, <http://chicagotorture.org/history/> (last visited June 22, 2016).

³ *Id.*; see also, e.g., Affidavit of Darrell Cannon, State of Illinois v. Darrell Cannon, No. 83-11830 (June 8, 1985), 6-7 at http://chicagotorture.org/files/2012/03/17/Darrell_Cannon_Affidavit_and_Drawings.pdf ("The officer with the electric cattle prod was sticking it to my penis and testicles while my pant[s] and shorts were pull[ed] down around my ankles, and he kept his feet on top of mine just as the other officer[s] were doing so I wouldn't be able to kick my legs . . ."); John Conroy, *The Mysterious Third Device*, CHICAGO READER (Feb.4, 2005), available at <http://www.chicagoreader.com/chicago/tools-of-torture/Content?oid=917876>.

⁴ *Statement to Special Prosecutors by Torture Victim Anthony Holmes*, REPORT ON THE FAILURE OF SPECIAL PROSECUTORS EDWARD J. EGAN AND ROBERT D. BOYLE TO FAIRLY INVESTIGATE SYSTEMIC POLICE TORTURE IN CHICAGO 1 (2007) [Hereinafter: REPORT ON THE FAILURE OF SPECIAL PROSECUTORS].

⁵ GOLDSTON-SANDERS REPORT 3 (1990), available at <http://humanrights.uchicago.edu/chicagotorture/torturebypolice/GoldstonSanders.pdf>.

⁶ *Id.*

the nineteen years of systematic torture.⁷ It was only after the UN Committee Against Torture called on the U.S. Government to bring the perpetrators to justice in 2006,⁸ that Burge was indicted and convicted for one count of perjury and two counts of obstruction of justice for the lies he told under oath in civil litigation that neither he or other detectives engaged in acts of torture.⁹ Burge was sentenced to four and half years in prison in June of 2010, but was subsequently released after serving less than four years.

While Jon Burge enjoyed his freedom, scores of torture survivors did not have access to any redress to ameliorate the torture they endured at his hands or direction. The vast majority of the survivors were unable to get any redress because the statute of limitations had expired on any civil rights lawsuits they could have potentially brought. Recognizing this inadequacy, activists began calling for reparations for Burge torture survivors, which ultimately took the form of a proposed city ordinance entitled Reparations for the Chicago Police Torture Survivors.

2) UN Committee Against Torture and Reparations in Chicago

The Committee Against Torture considered the issue of redress for Burge torture survivors at its last review of the United States and recommended that the United States provide redress for the torture survivors by supporting the passage of the Ordinance which was pending in City Council.¹⁰ Armed with the UN Committee Against Torture's recommendation, a coalition of organizations, including the Chicago Torture Justice Memorials, Amnesty International, USA, Project NIA and We Charge Genocide, pressed for the passage of the Burge torture reparations ordinance during the City of Chicago's mayoral and aldermanic election in the Winter of 2014 and the Spring of 2015. After decades of organizing, litigation and investigative journalism, the coalition agreed to a legislative reparations package with City of Chicago Mayor Emanuel's administration, which Chicago's City Council unanimously passed on May 6, 2015.

The unprecedented reparations legislation includes: a formal apology from the City of Chicago for the torture under Burge's command; specialized counseling services for the torture survivors and their family members; free enrollment and job training in City Colleges for survivors and their family members (including grandchildren) as well as prioritized access to other City programs; a history lesson about the Burge torture cases taught in Chicago Public schools; the construction of a permanent public memorial about the Burge torture cases; and it sets aside \$5.5 million dollars in a Reparations Fund for Burge torture survivors who are still living to receive

⁷ Joey Mogul, *The Chicago Police Torture Cases: 1972 to 2011*, THE PEOPLE'S LAW OFFICE 3.

⁸ COMMITTEE AGAINST TORTURE, REPORT OF THE COMMITTEE AGAINST TORTURE § 25, p. 71-72 (2006), A/61/44.

⁹ *U.S. Indicts Former Chicago Police Cmdr. On Perjury, Obstruction of Justice Charges Related to Alleged Torture and Physical Abuse*, DEPARTMENT OF JUSTICE, (Oct. 28, 2008), <http://www.justice.gov/opa/pr/2008/October/08-crt-938.html>.

¹⁰ U.N. Convention Against Torture, U.N. Committee Against Torture, *Concluding Observations on the third to fifth periodic reports of the United States of America*, U.N. Doc. CAT/ C/USA/CO/3-5 ¶ 26c (Dec.19, 2014).

financial compensation for the torture they endured. In January and February of 2016, the City of Chicago distributed financial compensation to 57 individuals most of whom received the entire \$100,000.00 dollars (a few less than \$100,000.00 because they previously settled with the City for small amounts). The City of Chicago is also providing funds for the planning and preparation of a community center that will house the specialized trauma services to the Burge torture survivors and their family members.

The passage of the reparations legislation for the Burge torture survivors represents the first time a municipality in the United States has provided “reparations” for racially motivated police violence and will provide long awaited and deserved holistic redress to Burge torture survivors and their family members once properly implemented.

3) Issues for Committee Against Torture Review

Although momentous and unprecedented progress has been made in guaranteeing redress for survivors of Burge torture, several significant issues remain that undermine the opportunity for meaningful rehabilitation and redress for many torture survivors.

a. Rehabilitative Services for Survivors of Torture by US Law Enforcement Officials Domestically – Article 14

Many of the torture survivors under Jon Burge continue to experience trauma as a result of the torture they endured with no access to properly resourced rehabilitative resources. There are approximately forty federally funded centers throughout the U.S. offering psychological treatment to people who have been tortured *outside* the U.S., yet the U.S. government has not to-date provided rehabilitative or psychological services to people who have been tortured domestically by U.S. law enforcement officials in contravention of Article 14.¹¹

While the Reparations Ordinance does provide some funding for trauma services, that funding is limited to three years and to those who were tortured under Burge’s command, although there are scores of other civilians, mostly African American and Latino, who were tortured by Chicago Police Department members both before and after Burge’s regime. General Comment 3 states that the “pervasive effect of torture” requires a long-term and integrated, holistic approach that includes readily accessible specialist services for anyone who has suffered harm as a result of the torture.¹² These torture survivors, and all survivors of cruel, inhuman, or degrading treatment or punishment by law enforcement officials in the United States, are entitled to

¹¹ United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment, Article 14 (“Convention Against Torture”), G.A. Res. 39/46, A/RES/39/46 (10 Dec. 1984).

¹² See United Nations Committee Against Torture, General Comment, No. 3, CAT/C/CG/3 (13 Dec. 2012) (“General Comment 3”).

psychological and other trauma services pursuant to Article 14 of the Convention Against Torture and General Comment 3.¹³

The City of Chicago has not committed to providing specialized psychological counseling rehabilitative services for all domestic law enforcement violence victims in the City of Chicago as the UN Committee Against Torture recommended in paragraph 26(c) of its previous concluding observations.¹⁴

Recommended Questions:

- 1) Please explain what measures the City of Chicago has taken to provide psychological and other rehabilitative services to the Burge torture survivors and family members under the passed municipal legislation.
- 2) Please identify what measures the United States has taken, including funding and the passage of federal legislation, to provide psychological and other trauma services to individuals who are tortured or subjected to cruel, inhuman, or degrading treatment or punishment by law enforcement officials in the United State as required by Article 14 and as recommended by the Committee in its previous concluding observations (para. 26).

**b. Survivors of Torture Who Remain Incarcerated –
Articles 13 and 15**

Many survivors of police torture under former police commander Jon Burge's command and others allegedly tortured by member of the Chicago Police Department remain incarcerated.¹⁵ To this day there are approximately 20 or so Burge torture survivors and numerous others who continue to languish behind bars due to wrongful convictions based in whole or in part on their physically coerced confessions.¹⁶ Their continued detention is in violation of Articles 13 and 15 of the Convention Against Torture, which requires the exclusion of statements made as a result of torture as evidence in any proceedings and a prompt and impartial investigation of any individual who alleges he has been subjected to torture.¹⁷

¹³ Id. ¶ 12 and 13.

¹⁴ U.N. Convention Against Torture, U.N. Committee Against Torture., *Concluding Observations on the third to fifth periodic reports of the United States of America*, U.N. Doc. CAT/ C/USA/CO/3-5 ¶ 26c (Dec.19, 2014).

¹⁵ Maurice Possley, Steve Mills & Ken Armstrong, *Veteran Detective's Murder Cases Unravel*, Chicago Tribune (Dec. 17, 2001), <http://www.chicagotribune.com/news/watchdog/chi-011217confession-story.html>.

¹⁶ Adeshina Emmanuel, *Human Rights Practices Inform Chicago Ordinance in Police Torture Case*, Chicago Reporter (May 6, 2015), <http://chicagoreporter.com/human-rights-practices-inform-chicago-ordinance-in-police-torture-case/>.

¹⁷ Convention Against Torture, Article 13 and 15.

Recognizing this, the Committee in its previous concluding observations recommended that the United States ensure that all instances of police brutality and excessive use of force are investigated promptly, effectively and impartially by an independent mechanism with no institutional or hierarchical connection between the investigators and the alleged perpetrators.¹⁸ It is imperative that all police torture survivors be granted new evidentiary hearings to meaningfully challenge their wrongful convictions with the wealth of new evidence documenting the pattern and practice torture by several Chicago Police detectives, including but not limited to those who worked with Burge and under his command.

Recently, the Illinois state legislature passed new legislation providing that all individuals who allege they were tortured or physically coerced to give a confession may seek redress from the Illinois Torture Inquiry and Relief Commission (TIRC)¹⁹. The legislation is awaiting the signature of Illinois' current Governor, Bruce Rauner, for the legislation to be enacted. While this is a promising and welcome development, the TIRC has been consistently underfunded since its beginning and needs proper financial resources to undertake these crucial and important investigations into these cases.

Recommended Question:

- 1) Please provide information on what steps the United States will take to offer all Chicago Police torture survivors the opportunity to meaningfully challenge their wrongful convictions.**

¹⁸ U.N. Convention Against Torture, U.N. Committee Against Torture, *Concluding Observations on the third to fifth periodic reports of the United States of America*, U.N. Doc. CAT/ C/USA/CO/3-5 ¶ 26 (Dec.19, 2014).

¹⁹ Illinois Torture Inquiry and Relief Commission Act, SB 392(amending 775 ILCS 40/35)(sent to governor June 23, 2016).