
Police Misconduct and Civil Rights

LAW REPORT

Volume 9

Number 17

September/October 2010

Chicago Police Commander Convicted of Lying About Torture

By G. Flint Taylor*

On June 28, 2010, almost 30 years after then Cook County State's Attorney Richard M. Daley refused to prosecute him, a Federal court jury in Chicago convicted former Chicago Police Commander Jon Burge of two counts of obstruction of justice and one count of perjury. As described by Seventh Circuit Court of Appeals Judge Diane Wood in 2005, there was an accumulated "mountain of evidence" that Burge had commanded a torture ring on the southside of Chicago from 1973 to 1991 that systematically utilized electric shock, suffocation with plastic bags, mock executions, beatings with telephone books, blackjacks, and baseball bats, and racial verbal abuse against African American suspects to obtain confessions. See, *Hinton v. Uchtman*, 395 F.3d 810 (7th Cir 2005) (Wood, J. concurring). Even as more and more evidence of systemic torture surfaced over the decades, successive prosecutors from Cook County, the U.S. Attorneys' Office, and the Department of Justice consistently refused to prosecute Burge and his confederates. More recently, the excuse for not prosecuting that was given by Cook County State's

Attorney Richard Devine, who had previously served as Daley's First Assistant, and later as one of Burge's civil lawyers, and by a politically connected Cook County Special Prosecutor, was that the statute of limitations had run on the underlying torture offenses.

In 2006, after the Special Prosecutor refused to indict Burge and his associates, increased community outrage focused on Federal indictments for perjury and obstruction of justice—crimes that the Special Prosecutor refused to utilize. These "Al Capone" type charges were not barred by the statute of limitations because Burge and several of his main accomplices had made sworn statements in Federal Court interrogatories and depositions denying that they participated in, witnessed, or otherwise had personal knowledge of police torture. After a Report from the United Nations Convention Against Torture, and hearings before the Chicago City Council and the Cook County Board, United States Attorney Patrick Fitzgerald, who had previously successfully prosecuted Dick Cheney underling "Scooter" Libby for obstruction of an investigation and perjury, announced in the fall of 2007 that he was investigating Burge and his associates. Finally, in October of 2008, Burge was indicted by the Federal Grand Jury for obstruction of justice and perjury

* Taylor, a PMCRLR Editorial Board member, has represented victims of police torture in Chicago for 25 years.

for allegedly lying when he denied participating in, or having knowledge of, torture in two interrogatory answers which his lawyers filed in a civil case, *Hobley v. Burge*, that alleged a pattern and practice of police torture. Burge was arrested at his Florida retirement home, where he had lived on a City of Chicago pension since he was fired from the Police Department in 1993.

The case was assigned to Judge Joan H. Lefkow, who is known for her intelligence, patience, and fairness. The Fraternal Order of Police quickly sprang to Burge's defense, as they had done previously during his firing hearing, again opening their members' checkbook to retain several hyper-aggressive former Cook County assistant state's attorneys as his counsel. This continued an unbroken string of free lawyering that Burge has received for more than 20 years from the City of Chicago and the FOP in a total of 10 civil, administrative, and criminal cases, representation that has cost taxpayers and union members approximately \$7 million.* For the next 18 months, discovery of more than five hundred thousand pages of documents proceeded, the defense unsuccessfully litigated a number of motions to dismiss, for change of venue, and for a hearing on alleged grand jury abuse, and several important evidentiary issues were litigated. In what was perhaps the most important pretrial decision in the case, the court addressed whether the Government could read into the record the prior testimony of a deceased torture victim, Andrew Wilson, and whether the defense could counter by reading the prior testimony of two deceased detectives, John Yucaitis and Patrick O'Hara, who participated in Wilson's interrogation. The court, in a lengthy opinion, ruled that Wilson's testimony could be introduced under Federal Rule of Evidence 804(b)(1), because he had been extensively cross examined by Burge's lawyers, who had a similar motive to develop Wilson's testimony, at those proceedings. *U.S. v. Burge*, 2009 WL 1108488 (N.D. Ill. 2009). In a later opinion, the court barred the deceased detectives' prior testimony, holding that it was not admissible under Rule 804(b)(1) because the Government did not have the opportunity

* The Chicago police torture scandal has already cost city and county taxpayers nearly \$55 million in defense attorneys fees, police pensions, judgments, settlements and related investigations and administrative proceedings, with at least five civil cases still pending.

to cross examine, or under Rule 807 because the testimony was not sufficiently trustworthy and there were other witnesses who could testify for Burge on the issues in question. *U.S. v. Burge*, 2010 WL 899147 (N.D. Ill 2010).

Burge's counsel obtained several continuances, and it appeared that the case would finally proceed to trial in January of 2010. A few months prior to that date, Burge moved for an indefinite continuance, providing medical evidence that he was about to embark on an intense period of treatment for what was described as an "advanced" case of prostate cancer. The Government sought to advance the trial so that it could be completed before the treatment, but the court reluctantly continued the case until late May 2010.

[Police Misconduct and Civil Rights Law Report](#) is prepared under the auspices of the National Police Accountability Project

Published bimonthly by Thomson Reuters
Editorial Offices: 50 Broad Street East, Rochester, NY 14694
Tel.: 585-546-5530 | Fax: 585-258-3708

Customer Service: P.O. Box 64833, St. Paul, MN 55164-0833
Tel.: 800-328-4880 | Fax: 612-687-6674

Subscription: \$571.00 for six issues
© 2010 Thomson Reuters ISSN 0738-0623

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A few weeks before jury selection was to begin, the *Chicago Sun Times* ran a front page article revealing that the Government was bringing new police witnesses before the Grand Jury as part of their continuing investigation into several of Burge's confederates. The story received significant follow-up coverage including an interview with a lawyer from the People's Law Office (PLO) who, for the past 25 years had represented numerous torture victims. Burge's counsel promptly reasserted their motion for change of venue, alleging that the PLO was in effect part of the prosecution's team. They compounded this attack on the PLO by subpoenaing all of their settlement documents for the past 20 years, purportedly to use in arguing that the victims and their lawyers had fabricated the torture claims to make money. The Judge denied the change of venue motion and quashed the subpoena, and jury selection began on May 24, 2010.

Jury Selection

The Government was represented by David Weisman, an experienced prosecutor and former FBI agent; Betsy Biffel, a seasoned attorney from the Civil Rights Division of the Justice Department; and April Perry, a tough young prosecutor from the local office. Together with a tandem of earnest young FBI agents that included a young woman and an African American man, the Government trial team was in sharp contrast in appearance and style to the defense lawyers, and fit well with that of the Judge. The Government was awarded six peremptory challenges, while Burge was given ten. Individual voir dire of each juror, outside the presence of the other venire members, was conducted by the Judge. John Conroy, a highly regarded investigative reporter who has covered the torture scandal for more than two decades, described the voir dire thusly:

It was striking how little some knew about the accusations. The first potential juror questioned said she'd first heard of the charges "about a year ago" and thought Burge had been accused of torturing two suspects. An attractive middle-aged white woman said she thought the case involved "stuff that happened in the 1970s." Others,

however, said they knew quite a bit. One African-American minced no words, saying she'd been reading about it for years and had heard a broadcast of a man talking about "his balls being squeezed." (the judge excused her shortly thereafter.) The woman who thought the case involved 1970s cases came across initially as a fairly neutral juror. Then in response to a question from Judge Joan Lefkow about police officers she indicated that she thought there was a racial aspect in law enforcement. Her husband, she said, was a polite, respectful, well-educated black man, but if he was driving with a taillight out he would get a traffic ticket no matter what he said, while if she was driving the same car she wouldn't.

John Conroy, *Deselecting Potential Jurors*, Chicago Public Radio, Vocalo Blog, May 24, 2010.

Another African American juror was excused after she said that she had been following the torture allegations with interest for many years, while another juror was excused after a fellow juror reported that she commented that Burge was "like an Al Capone and got away with a lot and now they've got a couple things they can finger him on and they're trying to take him down." A possible mistrial was averted when the juror, after being specially voir dired on her statement, swore that she had not shared her conclusion with any other jurors except the one who reported it.

After two days of voir dire, the parties exercised their peremptory challenges. Of the remaining venire, nine were African American, six of whom were potential jurors, and three of whom were potential alternates. Burge's counsel exercised seven of their challenges to excuse all of the black potential jurors, and one of the three potential alternates. The Government raised a *Batson* challenge, and after Burge's counsel offered their nondiscriminatory reasons for the strikes, the Government contested the defense challenges to one of the potential African American jurors, and one potential African American alternate. After argument, the court, in a carefully considered decision read from the bench, found the reasons given by Burge's counsel to be pretextual and granted

the Government's *Batson* challenges. Hence, the 12-person jury included only one African American and one Hispanic, a man who had unsuccessfully applied to become a Chicago police officer.

Opening Statements

The Government's opening statement was given by Betsy Biffel. She argued that Area 2 "had a dirty little secret... Hear no evil, see no evil, speak no evil could have been the motto of Area 2." She explained that the Government would prove, through the testimony of the victims, together with corroborative evidence, including contemporaneous statements by the victims to lawyers and family members, medical and photographic evidence, and admissions made by Burge to several private citizens, that he had participated in five torture cases from 1973 to 1985. Biffel revealed that a former Burge associate would testify under a grant of immunity as to one of the five torture incidents. Consequently, she concluded, this evidence established beyond a reasonable doubt that Burge was guilty of perjury and obstruction of justice for his denials in his interrogatory answers.

Former Cook County Assistant State's Attorney William Gamboney argued for the defense. Clearly demonstrating that the defense's pursuit of a jury bereft of African Americans was part of a broader strategy, Gamboney stridently appealed to law and order, emphasizing the criminal backgrounds and alleged gang affiliations of several of the torture victims, whom he was "certain" the jury was "not going to like." Dodging frequent sustained Government objections, he emphasized that Burge was a decorated Vietnam veteran, that he had risen quickly through department ranks due to "efficient, legal, hard and often heroic work," that he was "an honorable man," and "did not torture anybody." In a preview of things to come, Burge wiped away a tear during Gamboney's vitriolic presentation.

Anthony Holmes

The Government's first witness was Anthony Holmes, the man who held the dubious distinction of being Burge's first known electric shock victim. Clearly exhausted from several sleepless nights, Holmes, who had been released from prison in 2004,

testified that he received the nickname "Satan" as a toddler, rather than later as a leader of the Black Gangster Disciples, and that he had convictions for multiple robberies, armed robberies, auto theft, drug dealing, and murder. Holmes, obviously tense from having to confront his torturer for the first time since he was tortured in May of 1973, recounted how he was arrested by Burge, taken to an Area 2 interrogation room where Burge electric shocked him with wires coming from a black box device. One wire was connected to a set of handcuffs on Holmes' ankles, the other to cuffs on his wrists. A plastic bag was then put over Holmes' head and the shocking began. "It feel like a thousand needles going through my body," Holmes said. He passed out, onto the floor, Burge repeated this treatment several times, and Holmes thought he was dead. Thinking that they were trying to kill him, he agreed to say whatever Burge and his fellow detectives wanted. A lengthy confession was the result, Holmes was convicted on the sole basis of his confession, and he spent a total of 31 years in prison.

On cross examination Burge's lead lawyer, Richard Bueke, a former Gang Crimes prosecutor, hammered away at the details of Holmes' various crimes, his gang leadership and affiliation, and his nickname, until the Government obtained a ruling from the Judge that eliciting further details was not proper under the Federal Rule of Evidence. The defense also pursued their fabrication defense—establishing that Holmes had shared a prison cell with another torture victim, Melvin Jones, that the first documented statements that he gave were to People's Law Office lawyers many years after he was tortured, and that his lawyers did not file a motion to suppress his confession at his original trial. Bueke also utilized Holmes' court reported statement to further emphasize his alleged crimes and to cast doubt on his credibility. Bueke's attack dog approach, more suited for a prosecutor in the rough and tumble Cook County courts, seemed to many court room observers to be decidedly out of place in a Federal courtroom presided over by a calm and collected Judge who almost always firmly sustained the Government's objections when Bueke repeatedly plunged into previously forbidden waters.

The Government's next three witnesses shot a significant hole in the defense's theory of later fabrication. Powerful Cook County Commissioner Larry Suffredin, who was a fledgling public defender in 1973, testified that he met Holmes during an intake interview of newly arrived prisoners at Cook County Jail. He remembered Holmes, he testified, because he was a well-built bodybuilder who broke into tears when he described his treatment at Area 2, treatment that included electric shock and bagging. Holmes' common law wife, who was now a retired Cook County Sheriff, and his aunt also testified to seeing Holmes in custody shortly after he was tortured, that he look disheveled, his face was swollen, and he recounted that he had been tortured.

Melvin Jones

The Government's evidence next moved ahead in time nearly nine years to February of 1982 and the torture of Melvin Jones. Jones had been a key witness in the torture cases, starting from the time that the systemic nature of the torture had first started come to light in 1989 through anonymous letters of a Burge associate which were sent to People's Law Office lawyers. In these letters, Burge's torture of Jones was highlighted; the lawyers found both Jones and his 1982 motion to suppress testimony, and in this testimony Jones recounted that Burge had told him that he would have him "crawling on the floor" like he did "Satan and Cochise." This in turn led the lawyers to Anthony "Satan" Holmes, Cochise, and subsequently, over the next 20 years, to more than 100 additional African American torture victims whose abuse had been documented in one form or another. In 1992, Jones had testified for the City at Burge's Police Board hearing, and his testimony was key to Burge's termination from the police department for abusing Andrew Wilson.

While the jury heard none of this, Jones was nonetheless an important witness for the Government. Homeless, and having recovered from an almost fatal aneurism less than a year before, Jones recounted how Burge shocked him on the foot, thigh, and genitals with a device in a box, that he passed out, and that Burge later pointed a loaded gun at his head, cocked it, and threatened to "blow

his black head off." He admitted that he, like Holmes, was a Black Gangster Disciples leader, but, on cross examination, he denied having prison conversations with a rival gang member and notorious jailhouse snitch, Ricky Shaw, about fabricating his allegations of torture. Jones was followed to the stand by his lawyer at the time of his torture, Cassandra Watson, a former assistant state's attorney who had a familiarity with Burge and his tactics. She testified that Jones told her about his torture within days of his arrest, and that, on one occasion, she had brought up the black torture box, and that Burge had said, half jokingly, that it "left no marks." According to John Conroy, Watson "in general... was a fierce and determined witness who gave better than she got. Though she said at one point, 'I didn't want to be involved and I still don't want to be involved,' no one who saw her this morning came away thinking of a wall flower dragged underfoot." John Conroy, *The Black Box Leaves No Marks*, Chicago Public Radio, Vocolo Blog, June 1, 2010.

Andrew Wilson

The next series of witnesses related to Andrew Wilson, whose torture was, and always has been, the linchpin in the case against Jon Burge. Wilson and his brother Jackie were arrested nine days after Melvin Jones in February 1982 for murdering two Chicago police officers during a routine traffic stop. For the five days before his capture, Burge had commanded a brutal manhunt in Chicago's predominantly African American community for the killers. Taken to Area 2, Wilson was interrogated by Burge and several of his detectives. He was electric shocked with two separate torture devices, one of which consisted of a black box containing a hand crank generator that had wires with alligator clips attached. Burge, who was a former Military Police Officer assigned to a POW camp during the Vietnam War, and his accomplices used this device, which was similar to the devices used against Vietnamese prisoners and civilians by the U.S. military in Vietnam, to shock Wilson on the nose, ears, and genitals while he was handcuffed across a ribbed steam radiator. This torture, which resulted in Wilson ultimately confessing, left him with numerous cuts and bruises, as well as burns on his face, chest,

and leg from the radiator, and puncture marks on his ears and nose from the alligator clips.

Wilson first testified to this torture at his 1982 motion to suppress, his confession was ultimately suppressed by the Illinois Supreme Court, his civil rights lawsuit led to the uncovering of the systemic nature of Burge's torture ring, and Wilson's torture was the basis for Burge's firing from the Police Department over a decade after the torture was inflicted. Chicago Mayor Richard M. Daley, who was the State's Attorney of Cook County at the time of Wilson's torture, was specifically informed by the Chicago Police Superintendent of Wilson's torture, yet he refused to investigate or prosecute Burge and his accomplices, thereby expressly facilitating a decade of subsequent torture by Burge and his associates.

Portions of Wilson's direct and cross examinations from his civil rights trials and the firing proceedings were read from the stand by a young white FBI agent. This testimony ranged from his powerful descriptions of his torture to his invocation of the Fifth Amendment when asked questions that also had relevance to the police killings. Wilson's testimony was bolstered by two public defenders who saw Wilson soon after he was taken to Cook County Jail, observed his injuries, and heard his description of his torture. One of the lawyers, Dale Coventry, who went on to be Wilson's criminal trial lawyer, had an investigator take pictures of Wilson's injuries, including the marks on his ears, and the Government introduced these powerful pictures through him. The Government also called an emergency room nurse who, along with an emergency room doctor, had attempted to treat Wilson at the hospital, only to be thwarted by an accompanying police officer who was waving his gun and "advising" Wilson to refuse treatment.

The Government also called Dr. John Raba, who was the Director of Medical Services at Cook County Jail. Raba, who, like the nurse, was an extremely credible witness, told of being called to the jail by a doctor who was disturbed by Wilson's "unique" injuries. He described examining Wilson with a flashlight in his jail cell, seeing unmistakable evidence of burns, and hearing Wilson describe being electric shocked. He was so distressed by his examination

that he wrote a letter to the Superintendent of Police detailing what he saw and heard, and demanding a complete investigation. Although the jury was not so informed, this was the letter which was later delivered by the Superintendent to Cook County State's Attorney Daley. Raba did testify that soon after he sent the letter, he received a call from the very powerful Chairman of the Cook County Board, George Dunne, advising him not to get involved.

The African American Detectives and Civilian Witnesses

The Government then called two African American detectives to offer circumstantial evidence to support there being widespread and well known systemic torture at Area 2 under Burge's supervision. They were only partially successful in this attempt, however, getting before the jury that there was a so-called A Team that included several of Burge's accomplices, including Sergeant John Byrne and detective Peter Dignan, that the A-team worked the midnight shift, that they obtained confessions at a much higher rate than other detectives, and that one of them heard screams coming from Area 2 while Wilson was being held there and saw "footprints" on the clothes of Gregory Banks after the A Team had interrogated him. However, the Court did not permit testimony that torture by electric shock and baggings was an "open secret" at Area 2 under Burge, or that Burge pointed his gun at the back of Frank Laverty, an Area 2 detective who had blown the whistle on Area 2 misconduct. The Government also chose not to call two other African American detectives who had previously testified that they saw in Area 2 what they later thought to be the black box, and a third, who had walked in on an apparent Burge torture scene, died a month before the trial began.

The Government also presented two reluctant and frightened civilian witnesses, who recounted admissions a boastful and arrogant Burge had made to them. The first, Diane Panos, testified that she was a young lawyer contemplating a career in criminal defense, when, in the late 1980s, she was introduced to Burge in a bar. Burge gave her his police business card, which she kept and produced on the stand, and Burge proceeded to tell her that

criminal defendants had no Fourth, Fifth, or Sixth Amendment rights, that coerced confessions were acceptable because if the suspect did not commit the crime for which he was being interrogated, he had committed some other crime, that defense lawyers were low lifes, and, most significantly, that Andrew Wilson got what he deserved. She was barred from testifying that Burge had also made a sexually lurid comment to her. When confronted on cross examination with the possibility that Burge was referring to Wilson getting the death penalty rather than to his torture, she unequivocally stated that it was clear that he was referring to Wilson's abuse. She was followed by the sister of a former girlfriend of Burge, Darlene Lopez, who had partied on Burge's boat on several occasions. She produced pictures of her and her sister on the boat, and told of Burge boastfully talking about one suspect being locked in the trunk of a car and about another who was beaten with a baseball bat while handcuffed. Pursuant to in limine orders, she, like Panos, was not permitted to repeat any racist comments that Burge may have made to her. A recovering alcoholic with admitted memory problems, she haltingly but firmly maintained her testimony on cross examination.

Gregory Banks

The Government next presented the fourth torture case—that of Gregory Banks. In October of 1983, Banks was arrested for murder and taken to Area 2 by Burge and two detectives under his command. He testified that after he denied any involvement in the crime for several hours, the midnight crew took over the interrogation, that Sergeant Byrne and detective Dignan, after pointing a gun at his head and saying that they had “something special for niggers,” put a bag over his head, then beat him on the body while his air supply was cut off. After they repeated this torture several times, he gave a confession to the murder. He added that his murder conviction was overturned after he spent seven years in prison. He also testified that while Burge did not participate in the torture, he looked into the room on two occasions. Banks, who becomes very emotional whenever he talks about his torture, had a difficult time on cross examination. He started to become upset when he was pressed about his previous drug

habit, his prior membership in the Black Gangster Disciples, and his long criminal record for burglaries, and when confronted with his signed court reported statement, he said it was all lies, and at one point refused to answer further questions about the statement until ordered to do so by the Judge. The Government was able to rehabilitate Banks, however, when it called as its next witnesses the defense lawyer to whom Banks contemporaneously reported his torture, and the doctor who treated Banks at the jail. The doctor testified that he found the injuries on Banks consistent with his beating and inconsistent with the defense's theory—that he had received the injuries falling down a flight of stairs.

Detective McDermott and Shadeed Mu'min

The Government chose to end its case with the 1985 torture of Shaded Mu'min. While Mu'min was a convicted armed robber, he had no gang affiliation, did not know any of the other victim-witnesses, and, most significantly, the Government had obtained the testimony of a white former Area 2 detective, under a grant of immunity, that he had witnessed part of Mu'min's torture. Specifically, in 2008, former Area 2 detective Michael McDermott had told the Federal Grand Jury that he required immunity because he had witnessed an “act of abuse” by Burge, and had then recounted that he had seen Mu'min brought into Burge's office, that Burge had pointed his gun at Mu'min, that he had seen Burge put what appeared to be a plastic bag or typewriter cover over Mu'min's head, that he did not think Mu'min was able to breathe, and that he was sure that Burge was seeking to coerce a confession from Mu'min. He further testified that Mu'min was sitting, that it was a “one sided” confrontation, and that the only time Mu'min struggled was when the bag was put over his head.

However, when brought before the Judge a few weeks before the trial for reimmunization, McDermott publicly stated outside the courtroom that he thought Burge should not be prosecuted at this late date, and his lawyer hinted that McDermott might try to minimize the harm that he could do to his former boss. Soon after Assistant U.S. Attorney Perry

started McDermott's direct examination, the police code of silence reared its ugly head, and it became obvious that McDermott, who was quickly declared a hostile witness on the Government's motion, was going to attempt to walk a tightrope between an outright repudiation of his grand jury testimony and the almost certain perjury charge that would follow, and the damning Grand Jury testimony itself.

On direct examination, McDermott volunteered a tale of alleged intimidation at the Grand Jury by U.S. Attorney Patrick Fitzgerald himself, who he said appeared as he was about to enter the Grand Jury room and whispered to him that if he did not tell the whole truth, he could be indicted not only for perjury but also for obstruction of justice. He professed a concern for his family, and a fear that he would lose his current job with the State's Attorney's Office, his police pension, and his health insurance if he did not testify against Burge. Asserting that he had thought long and hard since his Grand Jury testimony, he said that Burge briefly pointed his gun in Mu'min's direction, that he saw what he now termed a 20-second "scuffle" between Burge and Mu'min, that Burge put a piece of plastic in front of Mu'min's face, rather than over his head, that Mu'min did not appear to be intimidated or have his breathing cut off, that he was only "guessing" when he said that Burge was seeking to coerce a confession, and that Burge could have been using the plastic because Mu'min might have been spitting or holding drugs in his mouth. Now, he said, Burge's conduct was "inappropriate," rather than abusive, and it was for the jury to decide whether it was a crime or not. Perry aggressively and repeatedly impeached McDermott with his Grand Jury testimony; in response he most often said either that he had "misspoken," or that he was only "guessing" when he more affirmatively testified.

For the first part of his cross examination, Bueke treated McDermott as if he were Burge's own witness, bringing out what a dedicated and conscientious boss Burge was, that McDermott respected him, and how crime infested and gang dominated the far south side of Chicago was in the 1980s, and re-emphasizing how fearful and intimidated the Government purportedly made him feel. In an ironic twist, he even brought

out, in violation of an agreed in limine order, that Burge had been terminated from the force. Bueke then shifted gears, attacking McDermott's credibility, bringing out that McDermott had admitted in the Grand Jury that on another occasion, he had pushed a suspect named Alphonso Pinex, and had previously lied about it under oath at Pinex's motion to suppress hearing, as well as having denied witnessing any abuse of Mu'min when he gave a statement to the Office of Professional Standards in 1993. On redirect examination, Perry seized on McDermott's reiteration of his quasi recantation, and again impeached him with additional Grand Jury testimony that further bolstered the version of events he told there, and further put the lie to his transparent attempt to repudiate it. When McDermott attempted to chastise the Government for waiting 20 years to prosecute Burge, Perry asked "sir, isn't it true the reason that these cases were not brought earlier is because people like you did not come forward earlier?" Perry also turned the tables on McDermott's claim of fear and intimidation:

Perry: Now, you testified on cross examination regarding what you say Pat Fitzgerald told you before the Grand Jury, is that correct?

McDermott: Yes.

Perry: And during that incident, even as you recount it, Pat Fitzgerald didn't use any bad language with you, did he?

McDermott: No.

Perry: He didn't scream at you did he?

McDermott: No.

Perry: He didn't physically touch you in any way, did he?

McDermott: No.

Perry: He certainly didn't point a gun in your direction, did he?

McDermott: That's correct.

Perry: He certainly didn't put a bag over your head, did he sir?

McDermott: That's correct.

Perry: He didn't make you feel in any way that you were going to be physically assaulted, is that correct?

McDermott: It was worse, he was threatening my family.

Perry: Sir, he was threatening your family by telling you you had to tell the truth?

McDermott's testimony was headlined on the front page of one Chicago daily newspaper, and a PLO lawyer's observation that McDermott's attempt to repudiate his Grand Jury testimony was a manifestation of the police code of silence was featured on several news reports. This led to the polling of the jury about whether any of them saw the news reports, and one juror admitted to having seen part of the newspaper headline, but nothing more.

Mu'min, now 66 years old and living in Ohio, then took the stand. He recounted in detail how he was tortured in Burge's office. He testified that Burge, who was seeking a confession, removed his .44 magnum revolver out of a drawer, placed it at Mu'min's head on several occasions, and simulated the deadly game of Russian Roulette. He also testified that Burge placed a plastic typewriter cover over his face on three occasions, cutting off his air supply and causing him to pass out. He also described the actions of a Burge "associate" who he said assisted Burge by holding him down, and may well have been McDermott. On cross examination, Bueke hammered away at Mu'min's criminal record, the fact that he had denied committing the robbery at his trial while now he admitted it, that he had brought his son with him on the robbery, and that he had later called Burge to get his car returned. Mu'min, unlike Banks, remained calm, if a little dispassionate, during his grilling, and his story was further corroborated by the subsequent introduction of records, produced well after Mu'min first identified Burge's unusual police weapon, which showed that Burge had indeed registered with the Secretary of State a .44 magnum revolver prior to Mu'min's torture.

The Government then rested, having put on more than 30 witnesses. The defense moved for a judgment of acquittal, arguing that the Government

had not proved the perjury charge because the notary who notarized the interrogatories on which the perjury charge was based testified that she did not swear Burge in before notarizing his signature. The defense also argued that the Government had failed to show that the obstruction offenses were completed because it purportedly did not prove that the interrogatories were used in the civil proceedings. The Government had, however, called an expert on civil procedure who had testified that interrogatory answers were significant in civil litigation. The Court denied the defense motion.

The Defense Case

The defense then proceeded to present its case. Burge's original pretrial witness list included Mayor Richard M. Daley, presumably to recount why he did not prosecute Burge 28 years before, but it had later become obvious that he was not seriously considered to be a witness. During the Government's case, former Police Superintendent Leroy Martin, who had served as Burge's commanding officer at Area 2 in 1983, nine of Burge's listed police witnesses, as well as the assistant state's attorney who had taken Andrew Wilson's confession, Larry Hyman, all appeared before the judge and informed her that they intended to invoke the Fifth Amendment if Burge called them to the stand. Burge challenged their right to make such an assertion, the Government informed the Court of the status of its ongoing investigation, and the Court conducted ex parte proceedings with the witnesses and their attorneys.

In a heavily excised order, the Court then held that the vulnerability of Hyman and seven of the police witnesses to indictment for perjury, obstruction of justice, and a third excised offense, thought possibly to be potential violations of the RICO Act, was not "fanciful," and that they were therefore entitled to assert their privilege. She later ruled that the eighth former officer, now a retired Judge, was similarly entitled to assert the privilege. She did not rule on the ninth officer's claim because his subpoena had been withdrawn, or on Martin's claim because the defense informed the Court that he would be called only if the Government were to call certain witnesses. The Court had also ruled that the defense could not

introduce the prior testimony of two other potential Burge witnesses, one deceased and the other demented, under Federal Rule of Evidence 807, ruling that they, like Yucaitis and O'Hara, did not meet the requirement of trustworthiness under the Rule.

Curiously, two of Burge's closest associates, John Byrne and Peter Dignan, both of whom had been directly implicated in the Banks case and had been regular attendees at the trial, were not on Burge's short list of witnesses, and therefore were not required to assert their Fifth Amendment privilege. The detectives implicated in the Melvin Jones case were similarly spared. Given the Court's previous refusal to permit the introduction of the prior testimony of the deceased and demented officers, Burge presented the testimony of none of the fifteen white officers most directly involved in the five torture cases. Instead the defense's witness list was reduced to several assistant state attorneys, a state's attorney's court reporter, a black Area 2 commander, an assistant special prosecutor, several black sergeants, a jailhouse informant, a forensic pathologist, the wife of the demented detective, and the possibility of Burge himself.

The defense called the assistant state's attorneys who were involved in taking the Holmes, Banks, and Mu'min statements, the state's attorney's court reporter who transcribed the Wilson statement, and an assistant state's attorney who was present at Area 2 during part of the day while Wilson was being tortured. Their testimony, classically reflecting the theme of "hear no evil, speak no evil, see no evil," underscored the reality that the systemic torture could not have continued without the cooperation and silence of the Cook County State's Attorneys' Office. All of them conceded that they worked with the police, and the court reporter, Michael Hartnett, admitted on cross examination that he told the Grand Jury that he "didn't give a damn" about Wilson, and that he was "surprised to see him alive." He also admitted that he sometimes took statements from bloody suspects and asserted that it was not his job to do anything about it. Additionally, he conceded that it was standard procedure to include questions concerning voluntariness in the court reported statement, that such questions were included in the

statements of witnesses he transcribed in the Wilson case, but there were no such questions and answers in the Wilson brothers' confessions. While the defense had consistently harped on the fact, often over sustained objections, that several sergeants and commanders at Area 2 were African American, it ended up calling only one, an elderly former sergeant who testified that he caught a glimpse of Andrew Wilson at Area 2 and that he did not look injured. Unfortunately for Burge, he also described Burge as a "hands on" supervisor. Assistant Special Prosecutor Thomas Reid testified that he had had a conversation with Holmes' attorney, Larry Suffredin, during which Suffredin allegedly said that he did not recall Holmes telling him that he was tortured. Reid's testimony, which had been directly contradicted by Suffredin when he testified, was further seriously undermined by the fact that Reid took no notes, made no contemporaneous report, and made only a brief reference to his conversation with Suffredin in a footnote in his report on the Holmes case. Surprisingly, the defense brought out that the Special Prosecutor's Office had investigated Burge for torture allegations for several years and did hundreds of interviews; however, the Government did not attempt to argue that the defense had opened the door to a subject that had been barred by an in limine order, which thereby permitted it to bring out the findings of the Special Prosecutor, particularly that Burge had abused Andrew Wilson and obstructed justice beyond a reasonable doubt.

One of the more surprising defense witnesses was Dr. Michael Baden, a preeminent New York forensic pathologist, who sported an impressive resume that featured investigating and analyzing injuries and deaths of prisoners. Baden presented yet another expert explanation for Wilson's injuries—the fourth that had been presented by successive Burge defenses over the history of the proceedings against him. All of these successive explanations were designed to attack the medical evidence that Wilson was electric shocked and burned on the radiator during his interrogation, and to support defense theories that some of Wilson's injuries preceded his arrest, and the remainder were either inflicted after he left Area 2 by the police wagon-men who transported him, or were subsequently self-inflicted by Wilson

himself. Baden contested the treating diagnoses of Dr. Raba and the emergency room nurse that the marks on Wilson's face and chest were burns, and the opinion of the late Dr. Robert Kirschner, an internationally renowned human rights advocate and torture expert, given at Andrew Wilson's civil trials, that the burns on Wilson's chest, face, and leg were consistent with the ribs of the steam radiator. Additionally, he contested Kirschner's opinion that he saw an electric spark mark on one of Wilson's ears, and opined that if Wilson were shocked, he would expect to see evidence of burning at the shocking points. He concluded that the facial injuries were not burns and had been suffered by Wilson prior to his arrest, and also doubted that the leg burn had been inflicted during the interrogation because he saw no evidence of burning on Wilson's pant legs in a picture that was taken after the interrogation was essentially complete.

Government attorney Biffel conducted a very effective cross examination, raising some jurors' eyebrows when she brought out that Baden was paid \$27,000 for about 50 hours of work viewing pictures of Wilson and reading related testimony. She contrasted the viewing of pictures nearly 30 years later with the diagnoses of a treating nurse and doctor, impeached Baden with a prior Burge admission that he saw no injuries on Wilson's face and chest when he was arrested, and brought out more details from Kirschner's prior opinion. She also emphasized Baden's grudging admissions that the leg injury was a burn, and that the marks on the ears were puncture injuries consistent with alligator clips, brought out that there was also a puncture wound on Wilson's nose, and raised questions about the basis of Baden's opinions concerning electrical burns and the lack of burn evidence on Wilson's pants.

Burge Testifies

Directly after Baden's testimony, the defense announced that it intended to call Burge the next morning, clearly hoping to get him on the stand quickly and his testimony completed before the weekend. The judge called Burge to the bench, admonished him that he was not required to testify, and inquired as to how he was holding

up. "Marvelously," Burge replied sarcastically. The courtroom was packed the next morning, as was an overflow courtroom. Among the spectators was U.S. Attorney Fitzgerald. Burge's testimony was limited by orders obtained by both sides. On direct, the defense was permitted to only put on limited evidence concerning Burge's decorated background, including his awards as a military police sergeant while serving in Vietnam, thereby precluding the Government from going into the question of his knowledge of electric shock torture on a POW camp where Burge was stationed during the war. See, John Conroy, *Tools of Torture, Chicago Reader*, February 4, 2005. While being led through his background, Burge brazenly testified that he had "retired" in 1997, despite the fact that he had, in reality, been terminated in 1993, and that administrative determination had ultimately been affirmed by the Illinois Appellate Court in 1995. He then recounted, in vivid detail, his version of each of the five cases in which he was accused of torture. He described Anthony Holmes as a physically imposing former prison "barnboss," and a leader in a pursued robbery gang, then told how he and Yucaitis convinced Holmes in less than an hour to voluntarily admit to a murder and to knowledge of a string of armed robberies, and to name a host of participants in the robberies, by using what the Superintendent later described in a commendation as "skillful interrogation." According to Burge, his only contact with Melvin Jones was when he entered the interrogation room to tell him that they would bring him to justice on the murder for which he was being held if it took "a year or ten years."

Burge's testimony then turned to the Wilson case. He described his role in leading the small army of detectives assigned to investigate the murder of the two white police officers, how he worked around the clock for five days on the investigation and manhunt, and how he led a team of officers to make the pre-dawn arrest of Andrew Wilson. As he testified, he appeared to break down in tears, saying that this was "very much" an emotional topic for him. Skeptics were not convinced, noting that Burge had extensively testified about the Wilson case in each of five separate proceedings from 1982 to 2004 with nary a sniffle. After Wilson's arrest, Burge testified that he told those transporting Wilson back to Area 2

to handle him with “kid gloves,” then never entered the room where Wilson was being held for the entire 14 hours that Wilson was in his custody. He also testified that Wilson made an oral confession to the capital murders early in the morning, yet he directed Assistant State’s Attorney Hyman not to take a court reported statement directly thereafter, and that the statement consequently was not taken until the early evening.

After he denied any involvement in the Banks interrogation, Burge turned his attention to McDermott and Mu’min. He testified that when McDermott brought Mu’min into his office, he took his revolver, which he admitted was a .44 Magnum, out of its holster and locked it in his desk drawer. He denied that he had a plastic object in his hand or placed it on or over Mu’min’s face, described Mu’min as cooperative, yet, like Wilson, he did not obtain a court reported statement from him at the time. Burge admitted that Darlene Lopez was on his boat, but denied making any admissions to her, and claimed no specific recollection of Panos, while also asserting that he would not have mentioned the Wilson case to her because he was being sued for \$10 million by Wilson at the time she testified he made the admission. When asked about the meaning of the interrogatories at issue, he first tried to play dumb, saying “beats me,” and then tried to shift the blame to his civil attorneys.

Government attorney Weisman cross examined Burge. Normally calm and collected, Weisman showed flashes of anger and passion as he challenged and impeached Burge’s carefully sculpted presentation. He first hammered away at the interrogatories, pointing out that Burge was personally liable for punitive damages in the lawsuit, that he had a free lawyer provided by the City whom he could call without expense any time he had a question, and that he continued to maintain that he neither participated in nor was aware of, the torture of suspects which was, at bottom, the obvious question asked and falsely answered in the interrogatories. He used the structure and content of Holmes’ lengthy confession, as well as his background, to debunk Burge’s contention that Holmes quickly, voluntarily, and without interruption confessed to a murder

and numerous armed robberies. He highlighted the implausibility that Burge, the “hands on” supervisor who often monitored interrogations from the doorway of an interrogation room and who had purportedly found it necessary to tell his detectives to handle Wilson with “kid gloves,” never entered Wilson’s interview room or observed his interrogation despite the fact that the investigation was the most important and high profile of his career. Weisman also highlighted how unlikely it would be for an experienced investigator to fail to obtain a court reported statement as soon as possible after the suspect agreed to cooperate, particularly in a capital murder case. When confronted with McDermott’s testimony concerning the plastic, Burge volunteered that McDermott looked “terribly distraught and under great pressure at the time he testified.” Weisman shot back “that’s because there’s a big code of silence within the Chicago Police Department, isn’t there?” Burge, flustered, denied knowledge of a code within the Department, and, in an obvious reference to the PLO attorney’s widely publicized statement of a few days before, stated that he had only heard of the code “from a bottom feeding lawyer.”

Fortunately for the Government, the Court needed to adjourn early, giving Weisman the opportunity to prepare for additional cross examination over the weekend. The Government seized on Burge’s code of silence and firearm maintenance answers, arguing that Weisman should now be permitted to confront Burge with detective Byrd’s testimony, previously barred, that Burge had pointed a gun at the back of Frank Lavery, the Area 2 detective who had broken the code of silence, and said “bang.” On Monday morning, the Court permitted Weisman to inquire about the incident, which Burge predictably denied. Taking full advantage of the added time to prepare, Weisman focused on a statement Burge had volunteered on cross examination the previous week—that he “lied to suspects all the time”—to make Burge squirm. Burge first denied that he made the statement, then, when confronted with his prior testimony, tried, with little success, to explain it away. Weisman then brought out that Burge had named his boat the Vigilante, supposedly not because he prided himself for taking the law into his own hands, as Weisman suggested, but rather, as he lamely tried

to explain on redirect examination, because it was the only name on a computer generated list that he had not previously heard of. Weisman closed his examination with the following series of questions that obviously was intended to describe Burge:

Weisman: In your experience, sophisticated criminals are sometimes difficult to catch, isn't that true?

Burge: I never met a sophisticated criminal.

Weisman: Well, sir you would agree with me that sometimes it takes a long time to bring a criminal to justice, wouldn't you?

Burge: Sometimes it takes a long time to find them. Sometimes it takes a long time to develop enough evidence to bring them to the bar of justice, yes.

Weisman: No further questions.

Due to the limitations imposed by the parties and the Court, and the tactical and strategic decisions made by the Government, Burge was not confronted with any of the other 105 documented cases of torture of African Americans that he allegedly either supervised or participated in, the reign of terror in the African American community that he commanded during the manhunt for the Wilson brothers, the fact that Andrew Wilson's brother Jackie had also been abused at Area 2 under Burge's supervision the same morning that Andrew had been tortured, the racial epithets that accompanied Burge's torture, racial and sexual comments he made and actions he took outside of the five torture cases presented, his Vietnam connection to torture, the fact that Wilson's confession did not include the standard statement that Wilson was not physically abused, that Burge was fired rather than retired, and that the Special Prosecutor had found that Burge had tortured Wilson beyond a reasonable doubt. Nonetheless, the image of a courageous and intelligent law enforcement officer with an almost photographic memory that the self assured Burge projected on direct examination, was, at the very least, thrown into serious question by Weisman's cross examination, and the central question of whether he was a liar, both on the stand and in his interrogatory answers, was in bold relief by the time he completed his testimony.

The Jailhouse Snitch

The next witness called by the defense was jailhouse snitch Ricky Shaw. In keeping with the Court's prior orders limiting the "fabrication" defense, Shaw's testimony was limited to any alleged involvement of the five victims in a purported plan to fabricate torture claims. In what could only be characterized as a serious anticlimax after Burge's testimony, Shaw, clad in an orange prison jumpsuit, told of a plan, purportedly hatched in prison long after all of the victims who testified in the case had already reported their torture, to fabricate abuse claims against Burge and other Area 2 detectives. Specifically, Shaw testified that he had been told of the plan by Melvin Jones, who had confided in him despite the fact that they were members of rival gangs. Shaw further testified that Jones told him that "he had lawyers and everybody trying to get on the case and there were others who were dying to get on it and that there were movie deals and book deals" as well as a civil suit. His cross examination revealed a long history of supplying false and fabricated stories to law enforcement authorities, and the fact that when he first reported this alleged plan to authorities in 1992, he never mentioned Jones. John Conroy on his blog dissected the highly suspect testimony:

It was a wonderful story, but it seemed to be untrue. Melvin Jones is featured in no movie, no book exists with Melvin as the hero, and when the two alleged prison pals got to talking in 1987, Jones couldn't have filed a civil suit if he'd wanted to — the statute of limitations had expired. (Jones, who is now homeless, has never sued anyone for the torture. When he testified earlier in this trial he said he'd didn't know a Ricky Shaw.) Flint Taylor, a founder of the People's Law Office, which represented cop killer Andrew Wilson in his 1989 civil suit against Burge and the city, said in an interview last night that not only was Jones no cause célèbre, he was a complete unknown. "In 1989, we thought the only torture case was Andrew Wilson," Taylor said. "We probably still wouldn't know about Melvin Jones if it weren't for the anonymous cop.

John Conroy, *The Witness in Leg Irons*, Chicago Public Radio, Vocalo Blog, June 22, 2010.

By previous rulings, the Court had barred a former ATF agent whom the defense attempted to offer as an expert on the alleged plan to fabricate, and two other jailhouse witnesses because their testimony did not relate to any of the torture victims who had testified. The Court had also barred the testimony of a former assistant state's attorney who later became a judge, who would have testified that a defense lawyer normally filed a motion to suppress when his client alleged physical abuse. The defense rested, and after the Government unsuccessfully attempted to offer as rebuttal Doris Byrd's testimony that Burge pointed his gun at the back of detective Laverty, the evidence was complete.

Closing Arguments and the Verdict

Weisman gave the opening closing for the Government. He began by telling the jury that the case was about more than just perjury and obstruction of justice, that it was about the use of electric shock, suffocations, mock executions, and radiator burning on five suspects over a 12-year period from 1973 until 1985. Weisman took the jury through each of the five cases, arguing that the torture did not stop because Burge was "above the law," that he "lied about what happened then," and "is lying now," and that "he never envisioned these four weeks when his conduct would be exposed in its full brutality." As described by John Conroy, Weisman was "straightforward, deliberate, methodical, a guided missile politely boring in. Not much heat, but a lot of light." John Conroy, *Closing Arguments*, Chicago Public Radio, Vocalo Blog June 25, 2010.

Bueke closed for the defense. While the defense had been barred from arguing jury nullification and that it was permissible for Burge to torture because the Government had tortured in Abu Ghraib and Guantanamo, Bueke's argument, which occasioned an unusually large number of sustained objections, was clearly designed to suggest these propositions, to racially inflame the predominantly white jury, and to wrap Burge in the mantle of effective and necessary law enforcement. Ignoring the reasonable doubt standard that most defense lawyers emphasize in their closing arguments, Bueke emphasized the

purported conspiracy among the victims, with the assistance of the PLO lawyers, and intoned that Andrew Wilson, whom he called "Mr. Wonderful," was "somewhere in the darkest, dingiest corner of hell, laughing hysterically at how he has manipulated this system." In 1973, he asserted, gang leader Anthony Holmes "was infesting the area known as Englewood. His calling was to turn the streets into a crime infested, drug infested, gun infested cesspool." He mocked the torture survivors as "poor, poor victims." Shadeed Mu'min was a "rat" and "a psychopathic armed robber trying to play the system," and Gregory Banks was "a serial burglar," a "pathological liar," a "heroin addict," and a "cough syrup addict." He falsely claimed that Wilson had not prevailed in his lawsuit, and his venom reached a crescendo when he said that representing Burge was the highlight of his legal career and argued:

[Burge and his men] were honorable true heroes. They were the only people that the south side of the city had to stand for them in the face of the Anthony Holmes of the world and especially the Andrew Wilsons of the world ... Evil still lurks, these monsters are all over the south side, they are all out there [now] just like they were then. I don't know if that will ever change, but I do know that those [African American] people would be better off if this gentleman [Burge] was still there.

April Perry, the youngest of all the lawyers trying the case, made the Government's rebuttal argument. Perry, who had earned her trial chops when she aggressively handled McDermott's attempt to repudiate his grand jury testimony, came out of the gate swinging. "They can get up there and scream and curse all they want and talk about who is and who is not going to hell ... but it is not evidence," Perry argued. Addressing the victims' numerous convictions, she argued. "So what? What does that have to do with this case?" Instead, she said, the case was about what happened to the victims. How was it, she asked, that of all their crimes, they all independently chose one case in which to assert they were tortured, and that one case, for each victim, involved Burge. "Who was he? ... Was he born under some unlucky star that made all these people blame him?" She deconstructed Bueke's claim that the five

victims had engaged in a decades long conspiracy, and told the jury that it was not for them to decide whether the victims were bad people. "We did not pick these victims. The defendant picked them... he believed no one would ever believe their word against his." Perry concluded her very effective argument by urging the jury not to stand by, as other "good men" had for decades while the torture continued. "You have seen the evil, you have heard the evil, and now we ask you to speak the truth," she concluded. The jury was then instructed, most notably that federal law does not require the raising of one's right hand and swearing to tell the truth and that someone who knowingly assumes the obligation of an oath and then provides false testimony is guilty of perjury.

After a day of deliberation and an intervening weekend, the jury, apparently to ascertain whether Burge had an alternative to answering the interrogatories, asked whether a defendant could take the Fifth Amendment in a civil case. The Judge answered the question in the affirmative. This question was followed by another in quick succession—whether the objection that Burge's lawyers asserted in the interrogatories before answering them absolved him from the import of the subsequent denials. The Court answered that it did not absolve him. A few hours later the jury returned with its guilty verdict on all three counts—two counts of obstruction of justice and one count of perjury.

Reaction to the Verdict

Reaction to the verdict was strong and immediate. US Attorney Fitzgerald in a post verdict press conference praised his trial team, said he was "gratified" by the verdict but "sad" that it took so long, and indicated that the investigation of Burge's crew continued. One of the lawyers for the victims stated that he was "very elated that this jury, with only one black person, spoke loudly and clearly; after all these years, this torture has now been recognized in a court of law and the man responsible for it is going to prison." Another victims' attorney stated that "It's a theme in our nation's civil rights history that corrupt, bigoted or inept state systems that can't deal with their own problems require the intervention of the federal authorities. This is another example. Most of the prosecutors and Judges at 26th Street are deeply entrenched with the police and the status

quo. It doesn't surprise me that in the end it took the U.S. Attorney's Office and the U.S. Department of Justice to do what the state authorities should have done 30 years ago."

Banner headlines in both newspapers the next day trumpeted "Guilty," and editorials praising the verdict quickly followed. Burge's bond was raised to \$450,000 which was secured by his brother's house, and Burge was permitted to return to Florida to await his November 5th sentencing. While Burge faces a maximum of 45 years, a former federal prosecutor familiar with federal sentencing guidelines predicted a more likely sentence of eight to 10 years. The Pension Board subsequently continued its hearing on whether to revoke Burge's police pension until after his sentencing, articulating the determinative issue to be whether Burge was convicted for crimes committed in connection with his employment.

Several jurors spoke to reporters. As reported by the *Chicago Sun Times*, 31-year-old juror Gary Dollinger said what "sent me over the top" was the testimony of Michael McDermott. "To me that was the icing on the cake. Mike McDermott was pretty compelling. He may have wavered from his grand jury testimony, but you could tell he was scared. He didn't recant it to say there was no brutality." Dollinger further recounted that "[o]f all of the victims, Andrew Wilson was huge. There's the leg burns. There's the clips on his ears. I could think maybe he got a clip [mark] in prison and scratched his ear, but that would be like a Martian landing on Earth. What are the odds?" With regard to the victims' criminal backgrounds, Dollinger continued "What some of these people had done was despicable. In some ways that made this decision harder." He asserted that the deliberations were always civil, with no one injecting race or personal factors, and "Everyone seemed fair and impartial." Despite his firm belief in Burge's guilt, Dollinger said he was moved by the defense arguments about Burge's heroic service in Vietnam and other contributions he made to society. "I believe he was guilty, but frankly if I was sentencing, I don't know... It was brutal on the South Side [in the 1980s]... I hate to see them lock him up and throw away the key. He served the city well for a period of time." Dollinger was not convinced by Burge's assertion that he was not aware of the police code of silence, stating "It happens in families, too.

Brothers don't talk about brothers. I see it happen in real life. It's probably why we're here 25-something years later—and not then." A second juror, Rachel Thielmann, said Burge did not seem believable on the stand: "The way he kept saying 'no,' it didn't seem believable to me, like he didn't want to be there." She found the testimony of the four victims to be stronger, saying that "they had nothing to win and nothing to lose." She also said "I think we're all people and that we're all equal. No matter if it were a school teacher or someone else, it shouldn't have happened to anybody." *Chicago Sun Times, Jurors Convict Burge of Perjury, Obstruction*, June 29, 2010.

Several of the torture victims were also asked for their reactions. As reported by John Conroy on his blog, Melvin Jones said he was "flabbergasted" by the verdict. "I hugged my wife, I jumped around and some things like that, but the main thing was that I got justice, something I have been wanting for 28 years. I wasn't an angel, but I didn't deserve the suffering he put me through. Everyone I turned to thought I was crying wolf. I just kept hoping and praying he would have his day, and today is his day. He got a chance to reap what he sowed. I am just so thrilled about it because I told him his day would come, but he was so busy torturing me that he didn't hear me. But I think his ears have been opened up and he can hear it now." Anthony Holmes, who now works two jobs, doing maintenance in a clothing manufacturer's warehouse and delivering bundles of the *Chicago Tribune* to stores, said "It's like a new life. It won't stop the nightmares I've been having, but now he is going to have some of his own. He took our life away and now someone is taking his away... . It's been a long time coming. I thought they [the jury] were going to let us down. I figured he would just win again. But we got people who believe in us now." Gregory Banks, who is studying to become an alcohol and drug counselor, voiced similar sentiments and added that "I am still looking for them to get the two men [Byrne and Dignan] who tortured me." John Conroy, *Guilty*, Chicago Public Radio, Vocalo Blog June 28, 2010.

Conroy also reported the police reaction, which was mixed. The former African American Police League President, Howard Saffold, hailed the verdict, as did an unnamed former police commander, who also questioned the role of higher placed police officials.

Several former colleagues of Burge, including John Byrne, defended him. Byrne, who may be a target of the Government's continuing investigation and only speaks when he is not under oath, blamed the "liberal" media and the Judge for the verdict, and further asserted that "people lie all the time in interrogatories, depositions, and trials in civil matters on both sides of a suit, and they are not prosecuted for perjury. Even witnesses for the prosecution and defense lie in criminal trials with impunity." John Conroy, *Police React to the Verdict*, Chicago Public Radio, Vocalo Blog July 1, 2010. The Fraternal Order of Police, which had financed Burge's multimillion dollar criminal defense, remained strangely silent, as did Mayor Daley until he was questioned about the verdict a few days later. A reticent Daley, who was one of the prosecutors responsible for the nearly 30-year delay in prosecuting Burge, responded by claiming that "We did everything possible in that time. After you look back you could change a lot of things," adding that he regretted "a lot of things in my life—just not that." Chicago News Cooperative, *Daley on Burge: 'We Did Everything Possible,'* June 30, 2010.

Conclusion

The Burge conviction was a significant victory for the forces that fight for human rights and racial justice. It should serve as an example for those who are seeking the prosecution of other Government officials, such as former Vice President Dick Cheney, who ordered or countenanced torture at Abu Ghraib, Guantanamo, and the secret black sites. In Chicago, the struggle for complete justice in the torture cases continues, as the movement seeks the prosecution of Burge's confederates, new hearings and trials for the more than 20 men who are still in prison on the basis of tortured confessions, passage of federal and state statutes that specifically criminalize police torture without a statute of limitations, an end to Burge's pension and the City's 20-year bankrolling of Burge's defense in the civil cases, and compensation for all of Burge torture victims, regardless of whether their claims are barred by the statute of limitations. Until these demands are met, justice remains incomplete, and the conscience of the City of Chicago can not be cleansed of the stain of systematic police torture and its official cover-up.