

BEFORE THE ILLINOIS TORTURE AND INQUIRY RELIEF COMMISSION

In re:

Claim of Clayborn Smith

TIRC Claim No.: 2011.007-S

CASE DISPOSITION

Pursuant to 775 ILCS 40/45(c) and 2 Ill. Adm. Code 3500.385(b), it is the decision of the Commission that, by a preponderance of the evidence, there is sufficient evidence of torture to conclude that the Claim is credible and merits judicial review for appropriate relief. This decision is based upon the Findings of Fact and Conclusions set forth below, as well as the supporting record attached hereto.

FILED
13 MAY 20 PM 2:09
CLERK OF THE CIRCUIT COURT
CRIMINAL DEPARTMENT
DOROTHY BROWN
CLERK

Findings of Fact

1. On October 20, 1992, Claimant Clayborn Smith ("CS") was arrested and taken to Area 1 of the Chicago Police Department, where he was interrogated over a period of 39 hours by Detectives John Halloran, Kenneth Boudreau, and James O'Brien.¹
2. During the course of that questioning CS was threatened, beaten, portions of his hair braids came undone because his head was jerked around by the hair, and he was confronted with misrepresentations regarding the evidence in the case by these three detectives.
3. CS eventually signed a court reported confession, a copy of which is attached as Exhibit A.
4. CS was later indicted for the murders of his grandfather Miller Tims, his great-aunt Ruby Bivens, and the assault of his mentally handicapped great-uncle Herbert Tims in case no. 92 CR 25596.
5. CS filed a motion to suppress his confession before trial and testified in support of the motion. (Report of Proceedings dated March 14, 1994 at D70-D136, and Report of Proceedings dated March 16, 1994 at A3-A22) His testimony was corroborated by that of his girlfriend Karen Tate, who was also in custody and pregnant at the time, as

¹ Each of these detectives had previously worked under Jon Burge when he was Commander of Area 2.

well as that of a friend, Rodney Sisson. (Report of Proceedings dated March 14, 1994 at D43-D70)

6. The following evidence was either not presented at the hearing, or has emerged since the hearing, on the motion to suppress:
 - a. In 1990 the Office of Professional Standards of the Chicago Police department concluded after an internal investigation that there had been systematic abuse at Area 2 by Jon Burge and certain of his subordinates for over 10 years. The Report was not released publicly until 1992.
 - b. On November 12, 1991, Jon Burge was suspended, and on February 11, 1993, the Police Board of the City of Chicago separated him from his position as a Commander with the Department of Police after finding him guilty of abusing Andrew Wilson at Area 2 in 1982.
 - c. In 2002 Chief Cook County Criminal Court Judge Paul Biebel appointed a Special State's Attorney to investigate allegations of torture by police officers under the command of Burge at Areas 2 and 3 to determine if any criminal prosecutions were warranted. Although the 2006 Report concluded that the statute of limitations barred any criminal prosecutions, the Report found that "[t]here are many [] cases which lead us to believe that the claimants were abused." (Report of the Special State's Attorney at 16)
 - d. TIRC records, attached as Exhibit B, indicate that Halloran has been accused of abuse and coercion in 39 other cases. Included among these is the 1992 case of Peter Williams, Dan Young, and Harold Hill, who were beaten into falsely confessing but were exonerated in 2005. Williams was incarcerated at the time of the offense. Boudreau and O'Brien were also involved in that case.
 - e. TIRC records, attached as Exhibit C, indicate that Boudreau has been accused in 37 other cases. He and Halloran have been accused of pulling detainees' hair on multiple occasions. Both were involved in the case of Derrick Flewellen, who confessed but was later exonerated by DNA, where the detectives were accused of threatening to arrest Flewellen's girlfriend and take her child away.
 - f. TIRC records, attached as Exhibit D, indicate that O'Brien has 35 other complaints of abuse and coercion, including Cortez Brown whose post-conviction petition alleging a beating by O'Brien and

others was granted in 2009². He was also involved in the George Anderson Claim, which was found to be credible by TIRC in June, 2012, and the case of Robert Wilson, who falsely confessed but was exonerated in 2006.

- g. Each of these detectives has pled the Fifth Amendment privilege against self-incrimination when questioned about abusing detainees³.
7. After his motion to suppress was denied, CS was convicted of murder at a bench trial where his confession was introduced against him. He was sentenced to natural life without parole.
8. There are significant inconsistencies between the confession and other evidence in the case:

- a. Miller Tims' wounds

The report of the post-mortem examination, excerpts of which are attached as Exhibit G, states that he suffered 17 lacerations, 7 of which were 1 inch or more deep.

Nowhere in the confession is there mention of stabbing Tims with a knife or other sharp object. The closest references are to a very brief struggle over a knife on page 8, and a “poke” with a fork on page 11, but these certainly do not account for the 17 lacerations found in the post-mortem examination.

- b. Origin of the fire(s)

The confession recites that CS poured gasoline on the murder victims but only threw matches on Miller Tims. It does not mention setting any other fires.

However, the report by the arson investigator, a portion of which is attached as Exhibit H, states:” Examination of the scene revealed two distinct points of origin with no communication whatsoever between the two points. Point of origin #1 was in the approximate middle of the kitchen floor. Here it appears that available materials, paper, rubbish and other combustables (*sic*) were placed on the floor and doused with a flammable liquid and ignited with an open flame. Point of origin #2 was in the hallway between the kitchen and front living room at floor level where

² People v. Brown, 90 CR 23997 (Transcript of Proceedings dated May 22, 2009 at 8, ruling of Judge that evidence of abuse by O’Brien and Burge subordinates in cases other than Brown’s was “staggering” and “damning”), attached as Exhibit E.

³ For example, O’Brien invoked the Fifth at the Brown hearing, as set forth in Exhibit F.

the body of [Miller Tims] was found. Apparently a flammable liquid was poured from that point to the front entrance door and ignited with an open flame.”

Contrary to this report, the confession speaks of only one fire, and never mentions a trail of gas from Tims’ body to the front door or its ignition.

c. Telephone cord around Bivens’ neck

The police report attached as Exhibit I indicates that a telephone cord was wrapped around Bivens’ neck. The confession does not mention this, even though it describes other injuries to her.

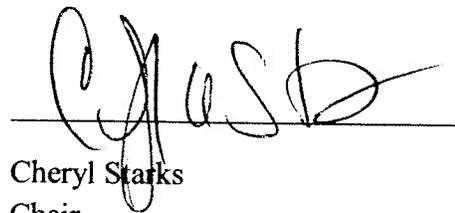
9. On direct appeal from his conviction CS argued that his confession had been coerced and should have been suppressed, but the appellate court affirmed in People v. Smith, No. 1-94-2521 (1996) (unpublished order pursuant to Supreme court Rule 23).
10. CS filed a *pro se* post-conviction petition in May, 1997, again raising the coercion claim, but it was summarily dismissed and the dismissal was affirmed on appeal in People v. Smith, No. 1-97-2929 (unpublished order pursuant to Supreme Court Rule 23).
11. In 2000 CS filed a federal petition for writ of habeas corpus once more raising the coerced confession claim, but it was denied based upon the harmless error doctrine in Smith v. Walls, 208 F.Supp.2d 884,888 (N.D. Ill. 2002).
12. In 2003 CS filed a federal civil rights action once again raising the coercion claim against the City of Chicago and the detectives. The disposition of this action is not known to TIRC.

Conclusions

1. This Claim qualifies for summary referral pursuant to 2 Ill. Adm. Code 3500.370 in that:
 - a. CS has consistently claimed since his motion to suppress to have been tortured in the manner stated in his TIRC Claim;
 - b. His Claim is strikingly similar to other claims of torture contained in the Reports of the Chicago Police Department’s Office of Professional Standards and the Special State’s Attorney regarding their investigations of Jon Burge and police officers under his command;
 - c. The officers accused are identified in other cases alleging torture; and

- d. The Claim is consistent with the Office of Professional Standards' findings of systematic and methodical torture at Area 2 under Jon Burge.
2. In addition, the other available evidence set forth above indicates that the Claim is credible and merits judicial review, particularly the conflicts between the confession and other evidence in the case.
 3. While in most cases the complaints of abuse and coercion against the accused officers are allegations and not judicial findings, they are nevertheless relevant in deciding whether abuse occurred in a specific case. People v. Patterson, 192 Ill.2d 93, 114-15, 735 N.E.2d 616 (Ill. Sup. Ct. 2000); People v. Cannon, 293 Ill.App.3d 634,640, 688 N.E.2d 693 (1Dist.1997).
 4. While invocation of the 5th Amendment privilege is not an admission of guilt, in a civil proceeding such as this a negative inference can be drawn from that fact. 2 Ill. Adm. Code 3500.375(g)

DATED: May 20, 2013

A handwritten signature in black ink, appearing to read "Cheryl Starks", is written over a horizontal line.

Cheryl Starks
Chair
Illinois Torture Inquiry and
Relief Commission

EXHIBIT A:

Statement of Clayborn Smith

tdb

RE: INVESTIGATION (FATAL BEATING AND BURNING OF MILLER TIMS AND
RUBY BIVENS)

S T A T E M E N T

of

CLAYBORN SMITH.

taken in an interview room. 2nd floor. Area 1 Headquarters. 5101
South Wentworth Avenue. Chicago, Cook County, Illinois, on
October 22, 1992. at 12:01 a.m..

PRESENT: Laura Lambur
Assistant State's Attorney

Det. Boudreau, Star No. 20435
Area 1 Violent Crimes

Reported By: Timothy D. Bennett, CSR
Illinois License No. 084-002628

Book No. 9210-22

MS. LAMBUR: Let the record reflect that we are in an
interview room at Area 1 Violent Crimes. Today's date is October
22, 1992. The time is 12:01 a.m.

Present in the room with me, Assistant State's Attorney
Laura Lambur, are Detective Boudreau, the court reporter, and
Clayborn Smith.

We are here to take the statement of Clayborn Smith
concerning the investigation of the fatal beating and burning of
Miller Tims and Ruby Bivens, which occurred on Saturday, October

Clayborn Smith

17, 1992 at approximately 7:45 p.m. at 4916 South Racine.

BY MS. LAMBUR:

Q. Now, I talked to you earlier and explained that I am an Assistant State's Attorney, a lawyer and prosecutor, and not your lawyer, is that correct?

A. Yes.

Q. And before we spoke, I advised you of your constitutional rights, is that correct?

A. Yes.

Q. I am going to read you your rights again.

A. Yes.

Q. Do you understand that you have a right to remain silent?

A. Yes.

Q. Do you understand that anything you say can be used against you in a court of law?

A. Yes.

Q. Do you understand you have the right to talk to a lawyer and have him present with you while you are being questioned?

A. Yes.

Q. Do you understand if you cannot afford to hire a lawyer, and you want one, a lawyer will be appointed by the Court

A. At night.

Q. How do you know it was 7:43?

A. Because when I came in, I sat down. I looked at the clock. It was a digital clock.

Q. Who let you into the house over there?

A. My grandfather. Mr. Tims.

Q. When you got over there, did you talk to your grandfather?

A. Yes.

Q. What did your grandfather say to you?

A. He was telling me about some things he had been going to funerals, some peoples, you know, some lady down south for something.

Q. What else did the two of you talk about?

A. He asked me how was I doing. And I told him I wasn't doing too well.

Q. What did you tell him?

A. I started telling him about how I was behind in my rent. I had been there two months and sneaking in and out the back door. And eventually they were going to call the police on me.

Q. What were you asking your grandfather?

A. Asking my grandfather to help me out, take me and Karen

the entrance going to the kitchen.

Q. On to the kitchen hall?

A. Yes.

Q. Where was your great uncle?

A. He was sitting in the living room. And when my grandfather started to prepare the food, he would go wash up.

Q. What happened when you and your grandfather were in the kitchen? Where were you standing?

A. At first I was standing by the vegetable bin as he was setting the table. And then I stood by the counter, right by the refrigerator.

Q. Where was your grandfather when you were near the refrigerator and counter area?

A. Rotating back and forth from the stove to the table.

Q. What happened then?

A. I was trying to convince him to believe me. And he wouldn't.

Q. And what happened at that point?

A. In the process of me trying to convince him to believe me, he kept doubting me, saying that he don't believe me.

Q. He didn't believe you about what?

A. He thought I was still selling drugs and stuff like that. I was trying to explain to him that I wasn't. That is why

W. J. Court

Clayton Smith
D. P. P. P. P. P.

I was coming to him for some help.

Q. What did you do as you were trying to explain that to him?

A. As words led on, he walked over to the stove. I was still talking to him. And he kept saying, I bet you be in jail before the end of the year is out. You just trying to think you're slick. That is what he was saying. We continued to talk. continued to talk and I just -- you know, I jumped up like, you know, I wasn't sitting down. But I jumped like, you know, listen to me. Believe me, you know what I am trying to tell you.

Q. What did your grandfather do when that happened?

A. Well, he was facing sideways to me. He grabbed a hold to the pan and said, wait a minute.

Q. What did you do?

A. I grabbed his arm and the pan.

Q. What is the next thing that happened?

A. I made a right turn, snatching the pan out of his hands and in the process of me turning, he went towards my back, like to grab me. But he never get a grip on me.

Q. What did you do?

A. I turned around and hit him in the head with the pan.

Q. What is the next thing you did?

A. Well, when he went back and came forward, I grabbed the

W. J. Hunt

Clayton Smith

knife. He grabbed the knife.

Q. Did he grab the same knife you had grabbed?

A. Yes.

Q. What happened?

A. The knife broke.

Q. What is the next thing that happened?

A. I believe I punched him.

Q. What happened to your grandfather when that happened?

A. He staggered back a little bit. He came towards me.

Q. What happened then?

A. He fell to the ground. And when he fell to the ground.

I grabbed something.

Q. Can you recall what it was you grabbed?

A. I think it was the stepladder.

Q. What did you do with the stepladder?

A. I raised it at him first. And he said something, and I

went to hit him with it.

Q. Did you hit him with it?

A. Yes.

Q. And what happened to your grandfather after he was hit with that?

A. He fell back to the floor.

Q. What is the next thing that happened, Cadson?

A. As he was raising up to grab me, you know, we doing a little of this...then I grabbed the lamp.

Q. And what did you do with the lamp?

A. I raised it and hit him with it.

Q. And when you hit him with it, was he on the ground?

A. He was about up -- Yeah, he was still, you know, body shaped like an L.

Q. His body was shaped like an L, half way up?

A. Yes.

Q. After you hit him with the lamp, what is the next thing that happened?

A. I was trying to keep him down. And he was calling me names. And I was saying, you know, I was trying to control him.

Q. And where was Ruby at this point?

A. Ruby was hollering and coming towards me because I was like trying to hold him. And she went to grab me.

Q. What was she saying, if anything?

A. She was, you know, hollering to god.

Q. She was hollering to god?

A. Yes.

Q. As she came toward you, what did you do?

A. I didn't do anything until she came over me. And I jumped up and pushed her back. And she fell. And my grandfather

17-2-1968

3 *Clayton Smith*

was still there. I told her to get -- I told her to lay down. She was like laying towards the bathroom then. And I told her to lay down.

Q. Did she lay down?

A. Yeah, she was saying, don't kill him. Don't kill him. I said I -- I told her I was -- I was saying something. We were both of us hollering and started hitting her with the iron. -

Q. Where were you hitting her with the iron?

A. In the back of the head.

Q. And how many times did you hit her in the head with the iron?

A. I think three, four.

Q. And do you remember a vacuum being in the area?

A. Yeah, but I grabbed the vacuum but it broke.

Q. When you grabbed the vacuum --

A. I think I grabbed the vacuum and the vacuum broke.

Q. When you grabbed the vacuum, what were you going to do with the vacuum?

A. I was trying to hit him with it.

Q. Going to try to hit your grandfather with it?

A. Yes.

Q. And do you remember a type of pronged fork or something?

D-9 Laura Baker

Clayton Smith

A. Yes.

Q. And what happened with that?

A. Well, when I hit -- when I went to grab the vacuum and attempt to swing it, he was on his way at me again. And we wrestled down. But I had got up. I had got up quicker and I poked him with it.

Q. Well, let me ask you this, Cadeen. Do you know where you poked him with the fork?

A. I think it was in the stomach, side, something.

Q. What was your grandfather doing now?

A. Hollering at me.

Q. Was he on the ground or was he up?

A. He was on the ground there. See, he got up several times, you know, it was a lot of movement involved. You know, by the way, I explained this like I was the only aggressor. But that is the only way to explain it, because I am not even trying to make it seem like he was trying to come at me. I am just telling you what I was doing.

Q. And after Ruby was hit with the iron, did she get up from the ground again?

A. No.

Q. What did you do then?

A. I looked at my grandfather and grabbed him -- no, I

Clayton Smith

grabbed somewhere or another. the lamp come in the deal. Then I grabbed him. He was breathing hard.

Q. Where was he when you grabbed him?

A. Laying by the couch. between by the couch and the wall. And I was just hollering, saying, no, you know, I love him, you know, like that.

Z Q. And after that did you notice anything about your clothes?

A. When I lay my grandfather back down to the floor, I looked at my clothes and it was all bloody, the shirt.

Q. What did you do after that?

A. Started hollering and crying.

Q. Where was your great uncle?

A. Sitting at the table.

Q. Did you do anything to your great uncle at that time?

A. No.

Q. Does your great uncle have some kind of a handicap?

A. Yes.

Q. What is that handicap?

A. Both his legs are amputated.

Q. Where did you go after that?

A. I sat in the chair and started crying. I paced -- I think I ran out of the house.

Clayton Smith
11/1/1961

Q. And where did you run to?

A. I ran to up the tracks, but towards Elizabeth, the alley.

Q. And what did you do?

A. Took off my shirt.

Q. And why did you take off your shirt?

A. Because it had blood on it.

Q. Where did you put your shirt?

A. In the trash can.

Q. Where did you go after that?

A. I ran back to the house on Bishop.

Q. Whose house is that?

A. My house.

Q. Is that a house or an apartment type building or what?

A. Apartment type building.

Q. Where did you go when you got there?

A. I think I went to -- I went to Jimmy's room.

Q. Is Jimmy a friend of yours?

A. You can say that.

Q. And when you got to Jimmy's room, what did you do there?

A. Changed ~~my~~ clothes. CS JJ KB

Q. And whose clothes did you put on after you took yours

not to be used

Clayton Smith

off?

A. His clothes.

Q. Where did you put your clothes?

A. In his closet.

Q. After changing your clothes, where did you go?

A. I went back to the house.

Q. And whose house is that?

A. My grandfather's.

Q. And when you got to the house, what did you do?

A. Started hollering, saying -- I went in and started
paning. I got real nervous.

Q. Was your great uncle still there?

A. Yes.

Q. Where was your great uncle?

A. Sitting at the table eating.

Q. And what happened with your great uncle?

A. I looked at my grandfather. I wanted to reach down and
touch him again.

Q. Was your grandfather still in the same spot you had
left him?

A. Yes.

Q. And was Ruby still in the same spot?

A. Yes.

Clayton Smith

Q. And what did you do at that point?

A. I think I ran downstairs. in the basement.

Q. What did you go into the basement for?

A. Gasoline.

Q. I am sorry?

A. Gasoline.

Q. Was there gasoline down there?

A. The first can I grabbed was no gasoline in. The second one there was.

Q. What did you do?

A. I ran upstairs and dashed some on Ruby. I think it was after I got the gasoline that I hit June Bug with the skillet.

Q. Is June Bug your great uncle?

A. Yes.

Q. And what did you do then with the gasoline?

A. Poured some on my grandfather.

Q. And then what did you do with the gasoline?

A. Then I think I dropped it.

Q. Dropped the can?

A. Yes.

Q. And what did you do then. Cadeen?

A. When I came back to the house, seen my grandfather laying there. I was just -- I was trying to figure out what to

do. That is when I ran and got the gasoline and came back upstairs. And I was shaking and I didn't know what to do. I was pouring some gasoline and reaching for some matches.

Q. Did you find some matches?

A. Yes.

Q. What did you do with the matches?

A. Threw them on my grandfather.

Q. Did the gasoline go up?

A. Yes.

Q. So what did you do then?

A. Ran out of the house, up the tracks, down towards the bowling alley. I went -- I am trying to remember when did I go to my grandfather's pocket. It had to be either before or after I grabbed the gasoline.

Q. What did you get out of your grandfather's pocket?

A. About \$26.

Q. What was the \$26 in?

A. A money fold.

Q. What else was in his pocket?

A. Back pocket was ~~this~~ his wallet. CS JF JTB

Q. Did you take the wallet also?

A. Yes. It doesn't sound the way it went, but, yes, that is the way it did. I grabbed Ruby's purse. Went in the room

when I got back but I wasn't trying to search for anything. I just grabbed it and, you know, stuff fell out by the ironing board. And I just left it there.

Q. When you left the house then where did you go?

A. I went on Morgan and bought a bag of reefer and went to 51st and Morgan. Out through Sherman Park School lot. went to Cobb. I was still -- right now I am on 52nd Place: went to Racine. Went through L and M Parking Lot. I winded up at the catholic school. I went through the alley and went home.

Q. When you got home, what did you do?

A. I sent Jimmy out for some cocaine.

Q. Did Jimmy come back with some cocaine?

A. Yes.

Q. And then what did you do?

A. Smoked it.

Q. And after you smoked it, what did you do then?

A. I went upstairs in the bathroom and just sat there and panicked, crying.

Q. When you left the bathroom, where did you go?

A. Went to Clint's room.

Q. Who is Clint?

A. A guy who is a resident in the building. A person staying in the residence.

Clayton Smith

Q. And is Clint a friend of yours?

A. Yes.

Q. And when you got over to Clint's room, what did you and Clint do?

A. We smoked a bag and I went back downstairs, went upstairs, you know.

Q. And then what did you do?

A. Showed Clint the wallet.

Q. After you showed Clint the wallet, what happened then?

A. I went to my bedroom where I seen Karen. I went to my bedroom and went back to Clint's room. And Clint wanted to go play checks. but it didn't happen immediately. It was time wasted.

Q. What does play the checks mean?

A. Try to play his credit cards.

Q. Would that be your grandfather's credit cards?

A. Yes.

Q. What else did you and Clint do?

A. We was getting high.

Q. And did you and Clint go out and try to play the credit cards?

A. No.

Q. What did you do?

Clayton Smith

Clayton Smith

A. Clint got Leo to go.

Q. And who is Leo?

A. A fat dude staying in the building.

Q. What were Leo and Clint going to do?

A. Well, going to the cash station and try to get some money out of there.

Q. Whose cash station card did they have?

A. My grandfathers.

Q. And did they come back?

A. yes. They ^{did} came back. *CS* *(KTB)*

Q. Did they have any money from your grandfather's cash station card?

A. No.

Q. Who kept the card?

A. Clint. Clint kept all of it. He said he was going to destroy it.

Q. Meaning the wallet and everything taken from your grandfather?

A. Yes.

Q. Let me ask you this, Cadeen. After Clint and Leo came back and they couldn't get any money with the card, Clint was going to keep everything of your grandfather's?

A. Yes.

Clayton Smith

Q. Was this all still at night?

A. Yes.

Q. And after that, where did you go?

A. I was in the bed.

Q. You were just in your own bed?

A. Yes. I got a belt from Clint.

Q. You got a belt from Clint?

A. Yes.

Q. When did you do that?

A. That was when I first seen him. That is when we first got high.

Q. And where had your old belt gone that you had worn when you were over at your grandfather's house?

A. I don't think I wore a belt to my grandfather's.

Q. Why did you get a belt from Clint?

A. Because I had changed pants downstairs and the pants was too big.

Q. Whose pants were those that you put on downstairs?

A. Jimmy's.

Q. Is that the same Jimmy whose closet in his room you left your clothes in?

A. Yes. my change that I went back to the house.

Q. Cadeen, let me ask you this. How have you been treated

by us since you have been here?

A. Fair, nice.

Q. Has anybody threatened or promised you anything in exchange for you giving this statement?

A. No.

Q. Have you been allowed to eat some food and drink some pop?

A. I have been offered food and I have been drinking pop.

Q. Do you smoke cigarettes?

A. I have been smoking, too.

Q. Have you been allowed to use the bathroom?

A. Yes.

Q. Gadeen, the court reporter is now going to type up your statement, okay. After he has typed it up, we will all go over the entire statement together. If you want to make any additions, any kind of corrections, you can do that when you see it, okay?

A. I just wish you type it from there. I don't want to change nothing. That is right there is all better when you drew up the first.

Q. You mean when you and I first talked about it the first time?

A. Yes.

F. D. ...

Clayton Smith
200

Q. When he types it up, let's go over it and anything you want to add or something that we skipped, you can add that in. Okay?

A. Yes.

MS. LAMBUR: This will conclude the statement of Clayborn Smith, also known as Cadeen. The time is now 12:38 a.m.

Clayborn Smith

X _____

WITNESSES TO SIGNATURE:

DH Keneflake 20735

MS Lambur

EXHIBIT B:

TIRC Database of Abuse Allegations against Detective John Halloran

Halloran, John (Star No. 17429/20453)

Victim	Date	Allegations	Source
George Ellis Anderson	1991	Beaten repeatedly	Testimony in Motion to Suppress in case nos. 91CR22152 and 91CR 22460; TIRC Claim Form
Keith Walker	1991	Repeatedly kicked, beaten, and shocked	Motion to Suppress & testimony in Motion to Suppress People v. Walker
Oscar Gomez: codefendant of Eric	1992	Threatened; struck by officers; held for 30 hours	Testimony in Motion to Suppress Statements in 92 CR 22930
Eric Gomez: codefendant of Oscar	1992	Threatened; struck by officers; held for 30 hours	Testimony in Motion to Suppress Statements in 92 CR 22930
Thomas Childs	1992	Slapped and beaten	TIRC Claim Form
John Plummer	1992	15 year old hit in the face, stomach, and side, including with a flashlight; hair pulled, held for 30 hours, not given food	Complaint in 96 C 2049N.D. III); testimony in Motion to Suppress in 91CR21451; People v. Plummer. 306 Ill.App.3d 574 (1st District 1999)
Clayborn Smith	1992	Beaten and hair pulled out	TIRC Claim Form
Kilroy Watkins	1992	Choked and punched in the face; held over 30 hours; denied food	Complaint in 02 C 3461 (N.D.III.)
Anthony Williams	1992	Beaten	<u>People v. Williams</u> , 303 Ill.App.3d 33 (1st District 1999)
Peter Williams: codefendant of D. Young and H. Hill	1992	Beaten with a blackjack; pistol stuck in his mouth and trigger pulled; confessed to a crime he could not have committed (incarcerated at the time)	Complaint in 06 C 6772 (N.D.III.). On 4/15/12 Tribune reported that City settling case for \$1.5 million and Halloran(along w/Boudreau) each paying \$2500 out of own pockets
Dan Young: codefendant of P. Williams and H. Hill- exonerated in 2005	1992	Beaten including being kicked and struck; psychological threats; IQ only 56	Complaint in 06 C 6772 (N.D.III.). See Williams above

Harold Hill: codefendant of P. Williams and D. Young- exonerated in 2005	1992	16 year old physically abused	Complaint in 06 C 6772 (N.D.Ill.). See Williams above
Oscar Gomez: codefendant of Eric	1992	Threatened; struck by officers; held for 30 hours	Testimony in Motion to Suppress Statements in 92 CR 22930
Eric Gomez: codefendant of Oscar	1992	Threatened; struck by officers; held for 30 hours	Testimony in Motion to Suppress Statements in 92 CR 22930
Fred Ewing and Darnell Stokes	1993	Coerced confessions from mentally retarded juveniles	Complaint in 98 C5569 (N.D.Ill.)
Jerry Gillepsie	1993	Slapped about head and face; grabbed and choked; knocked to ground while handcuffed to chair	Habeas petition 05CV1264(N.D. Ill.); TIRC Claim Form
Antwan Holiday	1993	Slapped in the face and threatened	TIRC Claim Form
Willie Hughes	1993	Beaten w/phone book; denied water/food/bathroom	TIRC Claim Form
Darnell Stokes	1993	Coerced confession from mentally retarded juvenile	Complaint in 98 C5569 (N.D.Ill.)
Emmit White	1993	Punched in body; thrown to ground; face stepped on	OPS CR# 200398
Fabian Pico	1994	16 year old beaten on face and stomach; denied access to mother	TIRC Claim Form
Lindsey Anderson	1994	Slapped in chest; "whole braid" of hair pulled out; kept in cold storage room for several hours	TIRC Claim Form
Reginald Henderson	1994	Grabbed by throat; head slammed against table; slapped in ears and face; interrogated for 30 hours	Testimony in Motion to Suppress Statements in 94 CR 11503

Sean Tyler	1994	beat in chest and face until vomiting blood; threatened with further beating	Testimony in 94 CR 11503
Antione Ward	1994	Stepped on left hand and hit on head; refused to let him use the bathroom (so he urinated in a desk drawer); interrogated for a 48-hour period	<u>People v. Ward, 302 Ill.App.3d 550 (1st Dist. 1998)</u> ; testimony in Motion to Suppress in 94 CR 11503
Derrick Flewellen: DNA exoneration	1995	Pain medication withheld; interrogated for more than 36 hours; repeatedly hit about face and body; stomped on foot and chair slammed on his toes; thrown against a wall; choked, threatened to arrest girlfriend and have her child taken away	Complaint in 00 C 2709 N.D. Ill.)
Rudy Davila	1995	Beaten and head forced into table	TIRC Claim Form
Abel Quinones	1995	Interrogated for 30 hours; beaten	Testimony in Motion to Quash Arrest and Suppress Evidence in 95 CR 22930
Dorcus Whilters	1995	Punched and threatened	TIRC Claim Form
William Ephraim	1996	Punched in head, chest and stomach until knocked unconscious; threatened	TIRC Claim Form
Joseph Davis	1997	Handed cuffed to wall for lengthy period ; grabbed by neck and picked up in the air; repeatedly threatened; denied washroom, sleep and food	TIRC Claim Form
Robert Wilson: exonerated in 2006	1997	Slapped and threatened	Trial Testimony; <u>Wilson v. Firkus, 457 F.Supp.2d 865 (N.D. Ill. 2006)</u>
James Hinton	1997	Denied counsel, shown disturbing photos; threatened mother	TIRC Claim Form
Josephus Jackson	1998	Slapped in face and punched in side; hit in stomach by striking an open telephone book ; tried to suffocate him with a plastic bag;	TIRC Claim Form

		electroshocked; threatened ex-fiancee		
Antione Anderson	1998	17 year old punched in lip and chest; could barely read and write		TIRC Claim Form
Donell Edwards	1998	Tightened handcuffs so that they were cutting into wrists and bleeding; pulled wrists behind back into painful position; denied medical attention		TIRC Claim Form
Jonathan Tolliver	1998	15 year old interrogated for 24 hours and denied right to contact family		<u>People v. Tolliver</u> , 347 Ill.App.3d 203 (1st Dist. 2004)
Armando Gutierrez	2000	Stripped of clothing; kept in cold room; denied sleep/food		TIRC Claim Form
Stanley Miller	2001	Choked; fed only once; denied restroom; threatened to take kids away and lock up their mother		TIRC Claim Form
Stanley Gardner		Beaten and left in very cold room		TIRC Claim Form

EXHIBIT C:

TIRC Database of Abuse Allegations against Detective Kenneth Boudreau

Boudreau, Kenneth (Star No. 17998,20435)

Victim	Date	Allegations	Source
Marcus Wiggins	1991	Electro shocked ; beaten; 13 year old denied access to mother	Special State's Attorney's Case Summary; OPS C.R. #193591 (sustained charge of interrogating juvenile w/o parent present); complaint in 93C0199 N.D.Ill.) (settled for \$95,000); confession suppressed based upon coercive atmosphere
George Ellis Anderson	1991	Beaten repeatedly	Testimony in Motions to Suppress in case nos. 91CR22152 and 91 CR 22460; TIRC Claim Form
Anthony Jakes	1991	Slapped in face; dropped to floor and kicked; cut with something metallic; threatened to push him out of a window, burn him with a cigarette, and have Latin Kings "do him a favor"	Testimony in 92CR5073; Affidavit in Support of Post-Conviction Relief
Jesse Clemon: correspondent of Marcus Wiggins	1991	Hit with a flashlight and beaten on chest and body	Special State's Attorney's Case Summary; OPS CR # 193591 (sustained charge of interrogating juvenile w/o parent present); complaint in 93C0199 (N.D.Ill.) (settled for \$95,000); confession suppressed based upon "coercive atmosphere"
Tremaine Green: correspondent of Wiggins and Clemon	1991	Struck in the eye, back, and chest	Special State's Attorney Case Summary; OPS C.R. # 193591 (sustained charge of interrogating juvenile w/o parent present); confession suppressed based upon "coercive atmosphere"
Alfonzia Neal	1991	Physically beaten; mentally retarded w/ IQ in the 40s	Maurice Possley, Steve Mills & Ken Armstrong, "Veteran Detective's Murder Cases Unravel", Chi. Trib., Dec. 17, 2001.

Clayborn Smith	1992	Beaten and hair pulled out	TIRC Claim Form
Thomas Childs	1992	Slapped and beaten	TIRC Claim form
Johnnie Plummer	1992	15 year old hit in face, stomach and side, including w/a flashlight; hair pulled; held for 30hrs; not given food	Complaint in 96C2049(N.D.Ill.); testimony in Motion to Suppress in 91CR21451; <u>People v. Plummer</u> , 306 Ill.App.3d 574 (1 st Dist. 1999)
Harold Hill: codefendant of D. Young and P. Williams- exonerated in 2005	1992	16 year old physically abused	Complaint in 06C6772 (N.D.Ill.). On 4/15/12 Tribune reported that City was settling case for \$1.25 million, and Boudreau (along w/Halloran) each paying \$7,500 out of their own pockets
Kilroy Watkins	1992	Choked and punched in the face; Boudreau screamed at Watkins to "Stop the bullshit"; held in custody over 30hrs; denied food	Complaint in 02C3461 (N.D.Ill.)
Anthony Williams	1992	Physically beaten	<u>People v. Williams</u> , 303 Ill.App.3d 33 (1 st Dist. 1999)
Peter Williams: codefendant of Hill and Young	1992	Beaten w/a blackjack; pistol stuck in his mouth and trigger pulled; confessed to a crime could not have done b/c incarcerated at the time	Complaint in 06C6772 (N.D.Ill.). On 4/15/12 Tribune reported that City was settling case for \$1.25 million and Boudreau (along w/Halloran) each paying \$2500 out of their own pockets
Dan Young: codefendant of Hill and Williams- exonerated in 2005	1992	Beaten, including being kicked and struck; psychological threats; IQ of only 56	Complaint in 06C6772 (N.D.Ill.). On 4/15/12 Tribune reported that City was settling case for \$1.25 million, and Boudreau (along w/Halloran) each paying \$2500 out of their own pockets
Eric Gomez & Oscar Gomez	1992	Denied call to father; threatened; struck; held for 30hrs	Testimony in Motion to Suppress in 95CR22930

Willie Hughes	1993	Beaten with phone book; denied food, sleep, & restroom	TIRC Claim Form
Fred Ewing & Darnell Stokes	1993	Coerced confessions from mentally retarded juveniles, who were classmates in special ed classes	Complaint in 98C5569 (N.D.Ill.)
Jerry Gillespie	1993	Slapped about head and face; grabbed and choked him; knocked to ground while handcuffed to chair	Habeas petition in 05CV1264 (N.D.Ill.); TIRC Claim Form
Miguel Morales	1993	Physically beaten	Testimony in 93CR597
Antwan Holiday	1993	Slapped in face; hit with flashlight on sides of body; threatened with more beatings	TIRC Claim Form
Tyrone Hood	1993	Struck about body; stepped on his neck and penis; put a gun into his mouth	OPS C.R. #200855
Lindsey Anderson	1994	Slapped in chest; "whole braid" of hair pulled out; kept in cold storage room for several hours	TIRC Claim Form
Fabian Pico	1994	16 year old beaten on face and stomach; denied access to mother	TIRC Claim Form
Reginald Henderson: codefendant of McGraw and Tyler	1994	Choked; slammed his head on a table; denied access to mother; threatened; interrogated for 30hrs	Testimony in Motion to Suppress in 94CR11503
Kenneth McGraw: codefendant of Henderson and Tyler	1994	Beaten about body	Testimony in Motion to Suppress in 94CR11503
Anthony Ward (Antione Ward)	1994	Stepped on left hand; hit on head, refused to let him use the bathroom so he urinated in a desk drawer; interrogated for 48hr period	People v. Ward, 302 Ill.App.3d 550 (1 st Dist. 1998)

Sean Tyler: codefendant of Henderson and McGraw	1994	Beat on chest and face until vomiting blood	Testimony in Motion to Suppress in 94CR11503
Derrick Flewellen: (DNA exoneration)	1995	Withheld pain medication; interrogated for more than 36hrs; repeatedly hit about the face and body; stomped on foot, which was in a soft walking cast, and chair slammed on his toes; thrown against a wall, choked, threatened to arrest girlfriend and have her child taken away	Complaint in 00C2709 (N.D.Ill.)
William Ephraim	1996	Punched in head, chest and stomach until knocked unconscious; threatened	TIRC Claim Form
James Hinton	1997	Denied counsel; shown disturbing photos; threatened mother	TIRC Claim Form
Joseph Davis	1997	Handed cuffed to wall for lengthy period; grabbed by neck and picked up in the air; repeatedly threatened; denied washroom, sleep and food	TIRC Claim Form
Robert Wilson: exonerated in 2006	1997	Slapped and threatened	Trial testimony in <i>Wilson v. Firkus</i> , 457 F.Supp.2d 865 (N.D. Ill. 2006)
Donell Edwards	1998	Tightened handcuffs so that they were cutting into wrists and causing bleeding; pulled wrists behind back into painful position; denied medical attention	TIRC Claim Form
Josephus Jackson	1998	Slapped repeatedly in the face and punched in side; hit in stomach by striking open phone book ; tried to suffocate him with a plastic bag; electro shocked; threatened ex-fiancé	TIRC Claim Form
Jonathon Tolliver	1998	15 year old interrogated for 24 hours and denied right to contact family	<i>People v. Tolliver</i> , 347 Ill.App.3d 203 (1 st Dist. 2004)

Richard Malek	1999	Beaten; put gun to his head; threatened: "I will beat you until you cannot move"; interrogated for 62hrs	Complaint in 01C9324 (N.D.III.)
James Freeman	2004	Chained to wall for over 30hrs; denied food and sleep; repeatedly interrogated	TIRC Claim Form
Francis Bell	2004	Beaten into signing a consent to search	U.S. v. Bell, 357 F. Supp.2d 1065 (N.D. III. 2005)

EXHIBIT D:

TIRC Database of Abuse Allegations against Detective James O'Brien

O'Brien, James (Star Nos. 8825, 20466)

Victim	Date	Allegations	Source
Steven Riley	1989	Struck with a flashlight	Special State's Attorney's Case Summary
Glen Dixon	1989	Kicked about head and body; elbowed in chest and knocked to ground	Deposition of James O'Brien in <u>Wiggins v. Burge</u> , 93C0199
Cortez Brown	1990	Beaten, including being struck with a flashlight on arm and chest; denied food	Special State's Attorney Case Summary; testimony in Motions to Suppress in case nos. 90CR23997, 90CR23998, 90CR23999 and 91CR643; 5/22/2009 Ruling in Post-Conviction
Ivan Smith	1991	Slapped and beaten on chest covered w/open phone book which was struck by nightstick	Testimony in Motion to Suppress in case no. 92CR0023; TIRC Claim Form
Antonio Nicholas	1991	Beaten and knocked out of chair	TIRC Claim Form
George Ellis Anderson	1991	Struck on phone book covering left side w/rubber hose or pipe; left hanging in cuffs	Testimony in Motion to Suppress in case nos. 91CR 22152 and 91CR22460; TIRC Claim Form
Javan Deloney	1991	Beaten while handcuffed to chair	TIRC Claim Form
Marcus Wiggins: correspondent of J. Clemon and T. Green	1991	13 year old shocked; beaten; hit w/flashlight; denied access to mother	Special State's Attorney Case Summary; OPS CR# 193591 (sustained charge of interrogating juvenile w/o parent present); complaint in 93C0199 (N.D.Ill.) (settled for \$95,000); confession suppressed in criminal case based upon "coercive atmosphere"
Jesse Clemon: correspondent of Marcus Wiggins and T. Green	1991	Hit with a flashlight and beaten on chest and body	Special State's Attorney's Case Summary; OPS CR #193591 (sustained charge of interrogating juvenile w/o parent present); confession suppressed in criminal case based upon "coercive atmosphere"
Gregory Logan	1991	Beaten with a bat; pointed gun to head; pushed against a wall	Complaint in 93C3386 (N.D.Ill.)

Curtis Milsap: codefendant of Ivan Smith	1991	Slapped him in the face; kicked in testicles while handcuffed; threatened	Special State's Attorney's Case Summary
Tremaine Green: correspondent of Wiggins and Clemon	1991	Struck in the eye, back and chest	Special State's Attorney's Case Summary; OPS C.R. #193591 (sustained charge of interrogating juvenile w/o parent present); confession suppressed in criminal case based upon "coercive atmosphere"
Travis Richardson	1991	Head slammed onto table	Affidavit introduced in hearing on Post-Conviction Petition in People v. Cortez Brown, 90 CR 23997, on May 18, 2009
Michael Peterson	1991	Choked, punched and kicked; attempted to burn w/cigarette	Record of OPS interview introduced in hearing on Post-Conviction Petition in People v. Cortez Brown, 90 CR 23997, on May 18, 2009
Raymond Washington	1992	Beaten; deprived of meds, medical attention, and sleep; kept in "super hot" room	TIRC Claim Form
Clayborn Smith	1992	Beaten and hair pulled out	TIRC Claim Form
Harold Hill: exonerated in 2005	1992	Physically abused	Complaint in 06C6772 (N.D.Ill.)
Maurice Lane	1992	Hit with a shotgun; choked, slapped and kneed while handcuffed; verbal abuse	Special State's Attorney's Case Summary
Fred Ewing & Darnell Stokes	1993	Coerced confessions from mentally retarded juveniles	Complaint in 98 C 5569 (N.D.Ill.)
Jerry Gillespie	1993	Threatened to beat and burn with a cigarette; slapped about the head and face; grabbed and choked	Post- Conviction Petition
Nicholas Escamilla	1993	Punched and slapped in the head, chest, stomach, and back; handcuffed to wall for 15 hours; interrogated for 18 hours; threatened his life and	Affidavit in Support of Petition for Post-Conviction Relief

		children				
Miguel Morales	1993	Beaten			Testimony in 93CR5971; Motion for New Trial	
Tyrone Reyna	1993	Hit, thrown against wall; told he was "going to get fucked up"			Affidavit in Support of Petition for Post-Conviction Relief	
Ramone McGowen	1993	Body slammed; threatened ; called racial epithets; shaken; choked			TIRC Claim Form	
Emmit White	1993	Punched in body; thrown to ground; face stepped on			OPS C.R. #200398	
Cordell Williams	1994	Beaten and threatened to file false charge against father, who was undergoing dialysis			TIRC Claim Form	
Reginald Henderson	1994	Grabbed by throat; head slammed against table; slapped in ears and face; interrogated for 30 hours			Testimony in Motion to Suppress Statements, 94CR11503	
Sean Tyler	1994	Beaten in chest and face until vomiting blood; threatened w/further beating			Testimony in 94CR11503	
Antione Ward	1994	Stepped on left hand; hit on head; refused to let him use the bathroom so he urinated in a desk drawer; interrogated for 48 hours			People v. Ward, 302 Ill.App.3d 500 (1 st Dist. 1998); testimony in Motion to Suppress statements in 94CR11503	
Rudy Davila	1995	Beaten and head forced into table			TIRC Claim Form	
William Ephraim	1996	Punched in head, chest and stomach until knocked unconscious; threatened			TIRC Claim Form	
Robert Wilson: exonerated in 2006	1997	Slapped and threatened			Trial Testimony in <u>Wilson v. Firkus</u> , 457 F.Supp.2d 865 (N.D.Ill.2006)	
Jonathon Tolliver	1998	15 year old interrogated for 24hrs and denied right to contact family			<u>People v. Tolliver</u> , 347 Ill. App.3d 203 (1 st Dist. 2004)	

Lamontreal Glinsey	1998	Struck w/closed fist 5 times	TIRC Claim Form
Antione Anderson	1998	17 year old punched in lip and chest; could barely read and write	TIRC Claim Form
Stanley Gardner	2002	Beaten and left in very cold room	TIRC Claim Form

EXHIBIT E:

Transcript of Proceedings dated May 22, 2009 in People v. Brown
90 CR 23997: Ruling by Judge Crane

1 STATE OF ILLINOIS)
2) SS:
3 COUNTY OF C O O K)

4 IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
5 COUNTY DEPARTMENT-CRIMINAL DIVISION

6 THE PEOPLE OF THE)
7 STATE OF ILLINOIS,)
8)
9 Plaintiff,)

10 vs.)

No. 90 CR 23997

11 CORTEZ BROWN a/k/a)
12 VICTOR SAFFORLD,)
13)
14 Defendant.)

Charge:

15 REPORT OF PROCEEDINGS of the
16 hearing had before the HONORABLE CLAYTON J.
17 CRANE, on the 22nd day of May 2009, in Chicago,
18 Illinois.

19 APPEARANCES:

20 OFFICE OF THE ATTORNEY GENERAL, by
21 MR. VICENZO CHIMERA, PAUL BERVID
22 and ERIC LEVIN,
23 Assistant Attorney Generals,
24 on behalf of the People;

MR. LOCKE BOWMAN, MR. FLINT
TAYLOR, MS. JOEY MOGUL and
MS. SARAH GELSOMINO,
on behalf of the Defendant.

Sandra Battaglia
Official Court Reporter
Criminal Division
C.S.R. #084-003168

1 THE COURT: Okay. The next matter before
2 the Court is the People of the State of Illinois
3 versus Cortez Brown also known as Victor
4 Safforld. You can take a seat over there.

5 Okay. Hopefully this is the last
6 time in this issue. Counsels, announce your
7 names for the record from the Petitioner's table
8 first.

9 MR. BOWMAN: My name is Locke Bowman on
10 behalf of Victor Safforld.

11 MR. TAYLOR: Flint, F-L-I-N-T, Taylor on
12 behalf of Mr. Safforld.

13 MS. MOGUL: Joey Mogul, M-O-G-U-L, on
14 behalf of Mr. Safforld.

15 MS. GELSOMINO: Sarah Gelsomino,
16 G-E-L-S-O-M-I-N-O, on behalf of Victor Safforld.

17 MR. LEVIN: Eric Levin, L-E-V-I-N, on
18 behalf of the Attorney General's Office.

19 MR. BERVID: Paul Bervid, B-E-R-V-I-D, also
20 on behalf of the Illinois Attorney General's
21 Office.

22 MR. CHIMERA: Good morning, your Honor.

23 Vincenzo Chimera, C-H-I-M-E-R-A,
24 from the Attorney General's Office.

1 THE COURT: Thank you.

2 I indicated today that I would
3 have my ruling. My ruling is not in writing. I
4 ran out of time. But I shall give the ruling.
5 And I am sure that's what most people are
6 concerned about.

7 This Court had the ability to
8 observe the interest, bias, and credibility of
9 the various witnesses who testified in this
10 matter. This Court took into account only
11 competent, relevant, and material evidence.

12 Although there are over 100
13 exhibits recovered in this case, those matters
14 which were considered by the Court as concerns
15 those various exhibits which were admitted were
16 only to the limited purpose for which each
17 exhibit was admitted. Those issues of hearsay
18 were not considered. Those issues of opinion
19 were not considered.

20 This is a third stage
21 postconviction hearing. The issue is whether or
22 not the Petitioner in this matter incurred a
23 substantial denial of his constitutional right
24 during the initial prosecution of this case.

1 This narrows down to whether the statement that
2 the Petitioner gave implicating himself was
3 voluntary or that his will was overborne by the
4 actions of the police causing him to confess.

5 This hearing was essentially a new
6 motion to suppress statements. At this hearing,
7 the only person that was in the room who
8 testified was the Petitioner. The present or
9 past detectives were silent. I am taking that
10 silence into consideration.

11 As concerns September 21st, 1990,
12 there were some circumstantial witnesses. Those
13 included the Assistant -- two Assistant State's
14 Attorneys, one of each -- each one who took a
15 statement in this matter, and the court
16 reporter.

17 They indicated in their testimony
18 they saw no visual signs of any harm caused to
19 the defendant, and the defendant did not
20 complain of any harm. It is also fair to note
21 that in the pictures taken of the defendant on
22 that particular day, I can't see any visual
23 signs. I am not a doctor.

24 He was wearing long pants. He had

1 a long-sleeve shirt on. He was dealing with
2 experienced -- very experienced detectives.

3 Much was made of the fact that the
4 defendant -- the Petitioner, excuse me, in this
5 particular matter -- Petitioner may no
6 complaints. The fact of the matter is, the
7 Petitioner is staying in the custody of the
8 Chicago Police Department after he makes the
9 statement. He is not going home with the
10 State's Attorneys.

11 On the other hand, Mr. Safforld is
12 not a good witness. I have been exposed to
13 Mr. Safforld, known as Cortez Brown by me, for
14 an extended period of time. I found him to be a
15 mature, streetwise individual. He sure didn't
16 testify that way.

17 I don't know what he was like 19
18 years ago. I can only glean that from his
19 testimony and from his behavior at the time of
20 the original incident.

21 When he was interviewed by
22 Sergeant Baker, he lied about his age. He used
23 13. That's the magic number to get you treated
24 as an individual. He didn't give the right

1 name. He figured maybe nobody would be able to
2 track him down.

3 I will indicate that Sergeant
4 Baker was the best witness in this case. I
5 believed absolutely everything he said. The
6 defendant did sign that statement. That is the
7 defendant's signature. He was given his rights.

8 The Petitioner's various
9 explanations of the events that occurred in the
10 room don't help his case. The issues where did
11 you get hit, how did you get hit, what did you
12 get hit with, seem to adjust themselves based
13 upon where he was testifying.

14 Given that, I understand the
15 original ruling in this case. I understand who
16 the witnesses were, and I understand what the
17 outcome of that ruling was.

18 In this hearing, I had an
19 advantage over the judge in that hearing. I
20 also had a disadvantage over the judge in that
21 hear. The disadvantage I had in this hearing
22 was I have no testimony from the other
23 individuals in that room. My advantage is I
24 have some additional evidence as to the

1 behaviors of some, if not all, of the detectives
2 in this case.

3 That evidence is staggering. That
4 evidence is damning. The Petitioner has met his
5 burden. Petition granted. Motion for new
6 trial.

7 Court is in session.

8 THE SHERIFF: Court is still in session.

9 THE COURT: Court will be in recess for
10 five minutes.

11 If you want to celebrate or
12 whatever you want to do, go outside. I
13 apologize for making the Sims' family victims
14 again.

15

16

17

18

19

20

21

22

23

24

(WHEREUPON the case was passed
and later recalled.)

THE COURT: Cortez Brown.

Bring out Mr. Brown, okay -- if
they are not up here -- or Mr. Safforld.

MR. BERVID: They are not in the hallway.
I know that.

THE COURT: Okay.

1 THE SHERIFF: They all went downstairs. Do
2 you need them back up?

3 THE COURT: Yes. Tell them I want them
4 right now.

5 Okay. This matter is -- we need a
6 date.

7 MS. MOGUL: Good morning again, your Honor.

8 Joey Mogul and Sarah Gelsomino on
9 behalf of Mr. Safford.

10 Your Honor, we would ask -- and I
11 have discussed this with Mr. Chimera -- if we
12 can set this down for next Friday.

13 THE COURT: Does that work for you?

14 MR. CHIMERA: That's fine. By agreement,
15 Judge.

16 THE COURT: By agreement to next Friday,
17 which is the 29th. Okay. See everybody back
18 here then.

19
20 (WHEREUPON the above-entitled
21 cause was continued to
22 5-29-09 in Courtroom 600.)
23
24

EXHIBIT F:

Detective James O'Brien pleading the 5th Amendment privilege
against self-incrimination

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

IN THE CIRCUIT COURT OF COOK COUNTY, ILLINOIS
COUNTY DEPARTMENT-CRIMINAL DIVISION

THE PEOPLE OF THE STATE OF
ILLINOIS,

Petitioner,

vs.

CORTEZ BROWN, a/k/a
VICTOR SAFFORLD,

Respondent.

No. 90 CR 23997

Post Conviction

REPORT OF PROCEEDINGS had at the hearing
of the above-entitled cause before the Honorable
CLAYTON CRANE, judge of said Court, on the 18th day of
May, 2009, at the hour of 11:20 a.m.

PRESENT:

HON. LISA MADIGAN
Attorney General of Illinois, by
MR. VINCENZO CHIMERA and
MR. PAUL BERVID and
MR. ERIC LEVIN
Appearing on behalf of the Plaintiff;

MR. LOCKE BOWMAN and
MR. FLINT TAYLOR and
MS. JOEY MOGUL and
MS. SARAH GELSOMINO
Appearing on behalf of the Defendant.

Paul W. O'Connor
Official Court Reporter
Circuit Court of Cook County
County Department

1 all your answers still be the same, you're asserting
2 your Fifth Amendment right?

3 THE WITNESS: Yes, sir, I would continue to
4 assert my Fifth Amendment right to not answer any of
5 those questions.

6 THE COURT: Okay. Cross?

7 MR. CHIMERA: No questions, judge.

8 MR. TAYLOR: Thank you, judge.

9 THE COURT: Thank you.

10 THE WITNESS: You're welcome.

11 MR. BOWMAN: Petitioner's next witness is
12 James O'Brien, who I believe is in the back.

13 (Witness sworn)

14 JAMES O'BRIEN,

15 called as a witness herein, having been first duly
16 sworn, was examined upon oral interrogatories and
17 testified as follows:

18 DIRECT EXAMINATION

19 By Mr. Bowman:

20 Q. Could you please state your name, sir.

21 A. Detective James O'Brien, O-B-R-I-E-N.

22 Q. Mr. O'Brien, are you currently employed as a
23 detective in the Chicago Police Department?

24 A. Yes, sir I am.

1 Q. Mr. O'Brien, in September of 1990, did you
2 work as a violent crimes detective at Area Three third
3 watch?

4 A. Counsel, at this time upon advice of counsel,
5 I respectfully decline to answer this question and
6 invoke my constitutional rights and privileges against
7 self incrimination as guaranteed by the Fifth Amendment
8 to the United States Constitution. And by Article One,
9 Section 10 of the Constitution of the State of
10 Illinois.

11 Q. I have a few more questions to ask you, sir.
12 And I think we can probably just boil that statement
13 down to assert the fifth.

14 Specifically on September 21st and
15 September 22, 1990, was John Byrne the third watch
16 supervising sergeant?

17 A. Again I revert to my previous answer and
18 assert my Fifth Amendment right.

19 Q. On September 21st, and September 22, 1990,
20 was John Burge your commanding officer?

21 A. Again counsel, I revert to my previous answer
22 and invoke my Fifth Amendment right.

23 Q. On September 21st and 22nd, 1990, did you
24 participate in the interrogation of Cortez Brown, then

1 known as Cortez Brown, in fact Victor Safforld?

2 A. Again counsel, I revert to my previous answer
3 and invoke my Fifth Amendment right.

4 Q. Did John Byrne directly supervise this
5 investigation?

6 A. Again counsel, I revert to my previous answer
7 and invoke my Fifth Amendment right.

8 Q. Did John Byrne participate in this
9 investigation?

10 A. Again, I revert to my previous answer and I
11 invoke my Fifth Amendment right.

12 Q. Did John Burge directly supervise this
13 investigation?

14 A. Again counsel, I revert to my previous answer
15 and invoke my Fifth Amendment right.

16 Q. Did John Burge participate directly in this
17 investigation?

18 A. Again, I revert to my previous answer and
19 invoke my Fifth Amendment right.

20 Q. During the course of the interrogation of
21 Cortez Brown, Victor Safforld, on September 21st and
22 22nd, 1990, did you, sir, pin Mr. Brown against the
23 wall of an interrogation room with the weight of your
24 body?

1 A. Again counsel, I revert to my previous answer
2 and invoke my Fifth Amendment right.

3 Q. At that time, did you refuse to honor
4 Mr. Brown's request that questioning cease until he
5 could have a lawyer present?

6 A. Again counsel, I revert to my previous answer
7 and invoke my Fifth Amendment right.

8 Q. Did you fail at that time to give Victor
9 Safforld known as Cortez Brown, his Miranda rights?

10 A. Again counsel, I revert to my previous answer
11 and invoke my Fifth Amendment right.

12 Q. Did you tell Mr. Brown, Mr. Safforld, that
13 everybody else involved in the matters under
14 investigation was pinning both the Curtis Simms murder
15 and the Delvin Boelter murder on him?

16 A. Again counsel, I revert to my previous answer
17 and invoke my Fifth Amendment right.

18 Q. Did you tell Mr. Brown that if he did not
19 confess to the Simms murder and Boelter murder, he
20 wouldn't be coming back?

21 A. Again counsel, I revert to my previous answer
22 and invoke my Fifth Amendment right.

23 Q. Did you slap Mr. Brown on the side of his
24 head with your open hand?

1 A. Again counsel, I revert to my previous answer
2 and invoke my Fifth Amendment right.

3 Q. Did you strike Victor Safford then known as
4 Cortez Brown, with a flashlight?

5 A. Again counsel, I revert to my previous answer
6 and invoke my Fifth Amendment right.

7 Q. Did you strike Victor Safford with fists in
8 the chest and sides of the body?

9 A. Again counsel, I revert to my previous answer
10 and invoke my Fifth Amendment right.

11 Q. Did you do all of these things that I just
12 asked you in order to coerce Victor Safford into
13 confessing to the murder of Curtis Simms against his
14 will?

15 A. Again counsel, I revert to my previous answer
16 and invoke my Fifth Amendment right.

17 Q. As of September 21st, and 22nd, 1990, had you
18 learned, sir, that in the course of conducting
19 interrogations under the command of John Burge, how to
20 physically abuse a suspect in such a way that no mark
21 of the physical abuse would be left on the suspect's
22 body?

23 A. Again counsel, I revert to my previous answer
24 and invoke my Fifth Amendment right.

1 Q. When you struck Mr. Brown, Victor Safford,
2 with your hand, your fists and a flashlight, did you
3 strike him in such a way that no mark of your physical
4 abuse would be left on his body?

5 A. Again counsel, I revert to my previous answer
6 and invoke my Fifth Amendment right.

7 Q. On November 8th, 1991, did you lie under oath
8 at the motion to suppress hearing in this very case,
9 when you denied any of the things that I have asked you
10 about?

11 A. Again counsel, I revert to my previous answer
12 and invoke my Fifth Amendment right.

13 MR. BOWMAN: If I may briefly approach. I
14 have a deposition, just to be clear, I have a
15 deposition of Mr. O'Brien that we are going to move
16 into evidence. These matters I'm going to place before
17 him were not covered in that deposition.

18 THE COURT: All right.

19 MR. BOWMAN: Q I'm going to hand up at this
20 time Mr. O'Brien, what's been marked for identification
21 as Petitioner's Exhibit No. 53, a complaint register
22 involving an individual by the name of Steven Riley.

23 My question, on April 4, 1989, while
24 under the command of John Burge at Area Three, did you

1 repeatedly strike Steven Riley with a flashlight during
2 the course of arresting him?

3 A. Again counsel, I revert to my previous answer
4 and invoke my Fifth Amendment right.

5 Q. I'm now placing before you, sir, what's been
6 previously marked as Petitioner's Exhibit No. 69. An
7 affidavit of an individual named Richardson.

8 My question, on September 28, 1991,
9 while under the command of John Burge at Area Three,
10 did you slam on a table Mr. Travis Richardson's head in
11 an effort to cause him to confess to a crime under
12 investigation?

13 A. Again counsel, I revert to my previous answer
14 and invoke my Fifth Amendment right.

15 Q. I'm placing before you now, what has been
16 previously marked as Petitioner's Exhibit No. 70. An
17 Office of Professional Standards interview of one
18 Michael Peterson.

19 My question, on September 28, 1991,
20 while under the command of John Burge at Area Three,
21 did you choke, punch, kick and attempt to burn with a
22 cigarette, Mr. Michael Peterson, in an effort to cause
23 him to confess to a crime under investigation?

24 A. Again counsel, I revert to my previous answer

1 and invoke my Fifth Amendment right.

2 MR. BOWMAN: With respect to the other
3 matters involving Mr. O'Brien, we will stand on the
4 record that's made in the deposition, which has been
5 marked for identification as Petitioner's Exhibit
6 No. 5.

7 THE COURT: Mr. O'Brien, if you were asked
8 any additional questions with reference to your
9 employment with the city as a detective, would your
10 answer still be the same, you invoke your Fifth
11 Amendment right?

12 THE WITNESS: Yes your Honor, it would.

13 THE COURT: Any cross.

14 MR. CHIMERA: No.

15 MR. BOWMAN: That's all I have.

16 THE WITNESS: Thank you, your Honor.

17 MR. BOWMAN: At this time we call Petitioner.

18 (Witness sworn)

19
20
21
22
23
24

EXHIBIT G:

Report of Postmortem Examination of Miller Tims

OFFICE OF THE MEDICAL EXAMINER
COUNTY OF COOK, ILLINOIS

REPORT OF POSTMORTEM EXAMINATION

NAME -MILLER TIMMS- CASE NO. 323 of October, 1992
AGE 66 RACE Black SEX Male DATE OF DEATH October 18, 1992
ADDRESS OF DECEDENT 4916 South Racine Av. DATE EXAMINED October 19, 1992
CITY & STATE Chicago, Illinois EXAMINED BY EDMUND R. DONOGHUE, JR., MD

EXTERNAL EXAMINATION:

The body is received clothed in the burnt remnants of a blue shirt, red nylon T-shirt, denim trousers, briefs, and white socks.

The body is that of an adult black male, weighing 170 pounds, measuring 5 feet 10 inches in length, and appearing the stated age of 66 years. The body is cold to touch. There is no evidence of rigor mortis or livor mortis.

The hair is gray and receding anteriorly. The eyes are closed. The irides are brown. The cornea are clouded. An arcus senilis is present bilaterally. The earlobes are creased bilaterally. There is a gray moustache. The mouth is edentulous.

The external genitalia are male.

The fingernails are short and clean. The toenails are medium length and clean.

EXTERNAL EVIDENCE OF INJURY:

1. On the lower abdomen and the anterior upper thighs, there are thermal burns with extremely deep charring. The abdominal cavity is open and the small bowel is visible through the defect in the abdominal wall. The genitalia have been almost completely destroyed. A charred remnant of one testicle remains. There is extensive charring of the anterior thighs down to muscle.
2. On the upper abdomen and left chest, there are thermal burns.
3. On the back and buttocks, there are thermal burns.
4. On the distal anterior thighs and legs, there are thermal burns.
5. On the posterior lower extremities, there are thermal burns.

EXTERNAL EVIDENCE OF INJURY:

6. On the posterior right upper extremity, there are thermal burns.
7. On the anteromedial right forearm and hand, there are thermal burns.
8. On the anterior left hand, there are thermal burns.
9. On the right back of the neck, 8.4 inches beneath the top of the head, 1.7 inches to the right of the midline, there is a horizontal stab wound, 1.0 by 0.2 inches. The wound course involves the skin and subcutaneous tissue in the area, and the musculature of the posterior neck.
10. On the left chin, just to the left of the midline, there is a slanting incised wound, 1.1 by 0.2 inches.
11. On the left back of the head, there is a deep T-shaped laceration, 3.3 by 1.8 inches.
12. On the left back of the head, there is a slanting deep laceration, 1.2 by 0.2 inches.
13. On the left back of the head, there is a slanting laceration, 0.4 inches.
14. On the left back of the head, just behind the left ear, there is a slanting deep laceration, 1.6 by 0.2 inches.
15. On the left side of the head, there is an irregular laceration, 0.8 by 0.4 inches. On the anterior margin of the laceration, there is a linear abrasion, 2.3 inches.
16. On the left side of the head, there is a slanting laceration, 2.5 inches. On the anterior margin of the laceration, there is an abrasion, 0.8 by 0.8 inches.
17. On the left side of the head, anteriorly, there is a slanting laceration, 0.6 by 0.2 inches.
18. On the right back of the head, there is a deep curved laceration, 2.8 by 0.2 inches.
19. On the right back of the head, there is an abrasion, 0.5 by 0.4 inches.
20. On the right side of the head, directly above the right ear, there is a horizontal abrasion, 3.0 by 0.3 inches.

EXTERNAL EVIDENCE OF INJURY:

21. On the right upper forehead, just to the right of the midline, there is a slanting laceration, 0.9 inches.
22. On the right forehead, just above the lateral right eyebrow, there is an abrasion, 0.6 by 0.3 inches.
23. On the left lateral forehead, just to the left of the midline, there is a slanting laceration, 0.3 inches.
24. On the left forehead, just to the left of the midline, there is a slanting abrasion, 0.3 inches.
25. At the lateral margin of the right eye, there is an abrasion, 2.2 by 1.9 inches.
26. Over the bridge of the nose, there is an abrasion, 0.4 by 0.4 inches.
27. On the left lower eyelid, there is a slanting laceration, 0.4 inches.
28. On the left face, there is a slanting laceration, 1.0 inches.
29. On the left face, there is an abrasion, 0.4 by 0.2 inches.
30. On the right inferior chin, there is an abrasion, 0.3 by 0.2 inches.
31. On the left anterior chin, there is an abrasion, 0.4 by 0.3 inches.
32. On the right inferior chin, there is a laceration, 0.2 inches.

INTERNAL EVIDENCE OF INJURY:

1. Over the left side of the head, there is diffuse subgaleal and temporalis muscle hemorrhage.
2. In the left parietal bone of the skull, there is a linear fracture.
3. Diffuse subarachnoid hemorrhage is present over the brain.
4. The brain displays cerebral edema manifested by flat ~~spots~~

EXHIBIT H:

Supplemental Report by Bomb and Arson Investigator Detective Dale Distel

Identify and describe all property or possible evidence recovered at the end of the Narrative in column form. Show exactly where found, when found, who found it and its description (include Property Inventory numbers). If property taken was scribbled for Operation Identification, indicate I.D. number at end of Narrative. Offender's approximate description, if possible, should include name if known, nickname, sex, race code, age, height, weight, color eyes & hair, complexion, scars, marks, etc. If suspect is arrested, give name, sex, race code, age, C.B. or I.R. number, if known, and state "In Custody."

SUPPLEMENTARY REPORT
CHICAGO POLICE - FOR USE BY S.I.S. PERSONNEL ONLY

All descriptions and statements in this entire report are approximations or summaries unless indicated otherwise.

4. DATE OF ORIG. OCCURRENCE-TIME
 DAY MO. YR. 17/18 Oct 92 1530/1815

1. OFFENSE/CLASSIFICATION LAST PREVIOUS REPORT Homicide/Murder		14. IUCR OFF. CODE 0110	15. ADDRESS OF ORIG. INCIDENT/OFFENSE 4916 S Racine		16. VERIFIED <input checked="" type="checkbox"/> VERIFIED <input type="checkbox"/> CORRECTED	17. BEAT OF OCCUR. 933
2. VICTIM'S NAME AS SHOWN ON CASE REPORT TIMS, Miller J;		18. CORRECT <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	19. IF NO. CORRECT ALL VICTIM INFORMATION IN BOXES 20 THROUGH 27.		20. FIRE RELATED <input checked="" type="checkbox"/> YES <input type="checkbox"/> NO	21. BEAT ASSIGNED 5812
3. TYPE OF LOCATION OR PREMISE WHERE INCIDENT/OFFENSE OCCURRED residence		13. LOCATION CODE 290		22. NO. OF VICTIMS 3	23. NO. OF OFFENDERS unk	
PROPERTY 4. VERIFIED <input type="checkbox"/> VERIFIED <input type="checkbox"/> UPDATE TO	11. OBJECT/WEAPON CODE NOS.	12. FIREARM FEATURES CODE NO.	13. POINT/ENTRY CODE NO.	14. POINT/EXIT CODE NO.	15. BURGLAR ALARM CODE NOS.	16. SAFE BURGLARY METHOD CODE NO.
	17. DESCRIBE PROPERTY IN NARRATIVE. T = TAKEN; R = RECOVERED		18. IF RESIDENCE WHERE WERE OCCUR. CODE NO.			
VICTIMS 5. UPDATE ONLY	20. NAME (LAST-FIRST-M.I.)		21. IUCR OFFENSE CODE	22. HOME ADDRESS (NO., DIR., STREET, APT. NO.)	23. SEX-RACE-AGE CODE	24. HOME PHONE
	25. BUSINESS PHONE		26. INJURED YES-NO	27. VICTIM REL. CODE		
OFFENDERS 6. UPDATE ONLY	28. OFFENDER'S NAME (OR DESCRIBE CLOTHING, ETC.)		29. HOME ADDRESS		30. SEX-RACE-AGE CODE	HEIGHT
	31. C.B. NO.		I.R. NO., Y.D. NO. OR I.D.A. NO.	OFF. I.R. NO., Y.D. NO. OR I.D.A. NO.	OFFENDER REL. CODE	32. NO. ARRESTED UNIT NO.
33. OFF'S VEHICLE YEAR MAKE		BODY STYLE	COLOR	STATE LICENSE NO. STATE		
34. SERIAL NOS. OR IDENTIFICATION NOS. <input type="checkbox"/> DNA <input type="checkbox"/> VERIFIED <input type="checkbox"/> CORRECTED		LIST ALL CORRECTIONS & NEW OR ADDITIONAL NOS. OBTAINED IN NARRATIVE				
35. OFFENSE/CLASS. THIS DATE (IF SAME ENTER DNA)		REV. CODE	51. METHOD COOF	52. METHOD ASSIGNED <input checked="" type="checkbox"/> FIELD <input type="checkbox"/> SUMMARY	UNIT NO. 603	53. STATUS <input checked="" type="checkbox"/> PROGRESS <input type="checkbox"/> SUSPENDED <input type="checkbox"/> UNFOUNDED
STATUS CONT'D. <input type="checkbox"/> 3 CLRD. CLOSED <input type="checkbox"/> 4 CLRD. OPEN		5 EXC. CLRD. CLOSED	6 EXC. CLRD. OPEN	7 CLSD. NON-CRIM.	54. IF CASE CLEARED, HOW CLEARED <input type="checkbox"/> 1 ARREST & PROSEC. <input type="checkbox"/> 2 DIRECTED TO JUV. CRT. <input type="checkbox"/> 3 COMPL. REFUSD. TO PROSECUTE <input type="checkbox"/> 4 COMMUNITY ADJUSTMENT <input type="checkbox"/> 5 OTHER EXCEPT.	
55. <input type="checkbox"/> FOR SUMMARY CASES ONLY - THE ORIGINAL CASE REPORT IS SUBSTANTIALLY CORRECT, AND CONTACT WITH THE VICTIM HAS DISCLOSED NO ADDITIONAL PERTINENT INFORMATION.						

PERMANENT RETENTION FILE

DATE & TIME OF OCCURRENCE: 17Oct91, 1530hrs/18Oct92, 1815hrs

DATE & TIME OF ASSIGNMENT: 18Oct92, 1915hrs

DATE & TIME OF ARRIVAL: 18Oct92, 1945hrs

VICTIMS: #1: TIMS, Miller J; M/B/66 dob 24Feb66,

4916 S Racine. Victim pronounced deceased

at scene by M.E. ORTIZ, #48. Apparent

cause of death was blows to the head.

#2: BIVENS, Ruby; F/B/66, dob 16Mar26

90. EXTRA COPIES REQUIRED (NO. & RECIPIENT) Area 1/ Violent Crimes		91. DATE THIS REPORT SUBMITTED DAY MO. YR. 19 Oct 92	TIME 1700	92. SUPERVISOR APPROVING (PRINT NAME) Sgt. T. CZARNECKI	STAR NO. 1976
93. REPORTING OFFICER (PRINT NAME) Det DISTEL		STAR NO. 20079	94. REPORTING OFFICER (PRINT NAME) CITY 1368	SIGNATURE T. Garmel	
SIGNATURE <i>[Signature]</i>		SIGNATURE		95. DATE APPROVED (DAY-MO.-YR.) 19 Oct. 92	TIME 1215

R.R.D. NO. T 495-090

15

VICTIM'S CON'T:

4916 S Racine. Victim was pronounced deceased at the scene by M.E. Investigator ORTIZ, #48 Apparent cause of death was blows to the head and possible strangulation.

#3: TIMS, Herbert; M/B/60, 4916 S Racine Subject discovered alive at subject building and was brought by ambulance #1 to Mercy Hospital where he is in serious condition with smoke inhalation and could not be properly interviewed at this time.

INCIDENT:

Homocide/Murder/Agg Arson investigation in that unknown offender(s) entered victim's residence which is a one story brick single family home and killed victim's #1 and #2. Offender(s) then attempted to conceal the crime by igniting two fires with the subject building.

CAUSE & ORIGIN:

Examination of the scene revealed two separate and distinct points of origin with no communication what-so-ever between the two points. Point of origin #1 was in the approximate middle of the kitchen floor. Here it appears that available materials, paper, rubbish and other combustables were placed on the floor and doused with a flammable liquid and ignited with an open flame. Point of origin #2 was in the hallway between the kitchen and the front living room at floor level where the body of Victim #1 was found. Apparently a flammable liquid was poured on the body of victim #1 and then a trail of a flammable liquid was poured from that point to the front entrance door and ignited with an open flame. The subject building was found locked and R/D observed that the kitchen oven was on at 300% possibly for heat within the house indicating the subject building was closed off from outside air. It appears that the fire consuming oxygen brought the oxygen/air content below 15% creating an atmosphere unable to sustain open flame. Additionally since the fire did not go back into the free burning stage upon the introduction of oxygen at discovery of the fire when the door was opened, it appears that the fire occurred a substantial time prior to it's discovery giving the smoldering combustables and heated gases sufficient time to cool.

PERMANENT RETENTION FILE

T 495-090

DAMAGE:

Minimal in that the fires were primarily contained to the points of origin with soot damage throughout the 1st floor of the subject building.

CITY 1369

007097

6

EXHIBIT I:

Report of Detectives Karen Hansen and William Bresnahan

PERMANENT RETENTION FILE

and her feet to the north. Her right arm is raised, bent at the elbow and her hand is face down on the back of her head. There is blood on the top of her head. She is wearing a skirt and blouse. An iron was found on her back (see EVIDENCE section). The iron is facing northeast. There is blood on the tip of the iron. Upon processing the scene, the body was examined and it appears as though her face is disfigured. There is a telephone received with the cord wrapped around her neck (see EVIDENCE section).

There is a bathroom across the hall from to the bedroom of Victim BIVENS. Further west through the hallway is access to a stairwell which leads to the rear door and a basement. The rear door is accessible from the ground-level rear north side of the house. The inner rear door is wooden and upon the R/D's arrival was open. The exterior door is a burglar type gate with plexiglass across the bars. It is locked and can only be opened with a key. There are no signs of any forced entry at the rear door or in the unfinished basement. At the rear of the house is the bedroom of Victim Miller TIMS.

All windows in the house are locked. The house appears to be intact and nothing appears to have been ransacked. It should be noted that the oven was found in the on position (warm) with the temperature set at 300 degrees.

Herbert TIMS, Victim #3, was interviewed. He is a double amputee (legs) and appears to be disoriented. He will be the subject of a future interview.

Chandra METHENE was interviewed on the scene and at Area One Violent Crimes. She related that she is the granddaughter of Victim Ruby BIVENS. BIVENS is the sister-in-law of Victim Miller TIMS. BIVENS moved in to the house after TIMS' wife passed away in order to help take care of the house. She related that Herbert TIMS and Miller TIMS are brothers.

Chandra received a call from the Pastor of her grandmother's church. He indicated that her grandmother was not at their church which was at 1400 hours on this date. Church members had knocked on the door and telephoned the residence without receiving a response. The pastor, his wife, Lillie WEBB, James BURGESS, and Lavandra CUNNINGHAM accompanied Chandra to the residence to check on the occupants. Chandra had keys to the residence. She noted that the burglar gate was unlocked. She said that this gate was always locked. She unlocked the front door and found the Victims.

She stated that Miller's grand-

CITY 1394

002000

31