

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DARRELL CANNON,

Plaintiff,

vs.

*Mayor and Former State's Attorney Richard M. Daley;**
Former Mayor Jane Byrne; Former Chicago Police
Lt. JON BURGE; States Attorney RICHARD
DEVINE; former CPD Superintendent TERRY HILLARD;
former Chicago Police Superintendent LEROY MARTIN;
former OPS Director GAYLE SHINES; former Police
Sergeant JOHN BYRNE; former CPD detectives PETER
DIGNAN, MICHAEL BOSCO, DANIEL MCWEENY,
RAYMOND MADIGAN, and RAY BINKOWSKI; THE
ESTATE of former detective CHARLES GRUNHARD;
aide to the Superintendent THOMAS NEEDHAM; the
CITY OF CHICAGO; COOK COUNTY, ILLINOIS; and
the COOK COUNTY STATE'S ATTORNEY'S OFFICE,

Defendants.

Case No. 05-C-2192
The Hon. Amy St. Eve

JURY DEMANDED

PLAINTIFF'S FIRST AMENDED COMPLAINT

I. INTRODUCTION

1. This is a civil rights action brought pursuant to 42 U.S.C. § 1983 et seq.; the Judicial Code, 28 U.S.C. §§ 1331 and 1343(a); the Constitution of the United States; and pendent jurisdiction, as codified in 28 U.S.C. § 1367(a).

2. This Court has jurisdiction of the action pursuant to 28 U.S.C. § 1331. Venue is proper under 28 U.S.C. § 1391(b). The parties reside, or, at the time the events took place, formerly resided in this judicial district, and the events giving rise to the claims asserted herein

* *All of the new allegations are in italics.*

occurred here as well.

II. PARTIES

3. Plaintiff Darrell Cannon is an African-American man, and a citizen of the United States.

4. Defendant Jon Burge was a duly appointed and sworn Chicago Police Lieutenant and the commanding officer of Chicago Police Area 2 Detective Violent Crimes Unit. Burge was the commanding officer of Defendants John Byrne, Peter Dignan, Charles Grunhard, Michael Bosco, Ray Binkowski, Ray Madigan, and Daniel McWeeny; engaged in the conduct complained of in the course and scope of his employment; and is sued in his individual capacity. Defendant Burge engaged in a pattern and practice of torture and brutality himself, and also supervised, encouraged, sanctioned, condoned and ratified brutality and torture by other detectives, including, but not limited to, the police officer Defendants named herein. In 1988, Burge was promoted to Commander of Area 3 Detective Division by Defendant Martin and held this assignment until 1991, when he was suspended and, ultimately, fired by the Chicago Police Department for the torture and abuse of Andrew Wilson.

5. Defendant John Byrne was a duly appointed and sworn Chicago Police Sergeant in the Chicago Police Area 2 Detective Violent Crimes Unit. Byrne was the supervisor of Defendants Peter Dignan, Charles Grunhard, Michael Bosco, Ray Binkowski, Raymond Madigan, and Daniel McWeeny; engaged in the conduct complained of in the course and scope of his employment; and is sued in his individual capacity. Defendant Byrne, like Defendant Burge, engaged in a pattern and practice of torture and brutality himself, and also supervised,

encouraged, sanctioned, condoned and ratified brutality and torture by other detectives, including, but not limited to, the police officer Defendants named herein.

6. Defendants Peter Dignan, Charles Grunhard, Michael Bosco, Ray Madigan, and Daniel McWeeny (referred to herein collectively, with Defendants Burge and Byrne, as “the Defendant Officers”) were duly appointed and sworn Chicago Police detectives who were assigned to the Detective Division at Area 2 Violent Crimes Unit under Defendant Burge’s command; engaged in a pattern and practice of torture and brutality themselves; and engaged in the conduct complained of in the course and scope of their employment. The Defendant Officers are sued in their individual capacities.

7. From 1987 to 1992, Defendant Leroy Martin was the Superintendent of Police for the City of Chicago, and as such was responsible for the policies, practices, and customs complained of herein. In 1983, he was Commander of the Area 2 Detective Division and was thereby Defendant Burge’s direct supervisor, as well as the command supervisor of Defendant Byrne, and the other Defendant officers. He engaged in the conduct complained of in the course and scope of his employment and is sued in his individual capacity.

8. From 1998 to 2004, Defendant Terry Hillard was the Superintendent of Police for the City of Chicago, and as such was responsible for the policies, practices, and customs complained of herein. He engaged in the conduct complained of in the course and scope of his employment and is sued in his individual capacity.

9. From 1998 to 2002, Defendant Thomas Needham was counsel to, and administrative assistant for, Superintendent Terry Hillard, who was his direct supervisor. He engaged in the conduct complained of in the course and scope of his employment and is sued in his individual

capacity.

10) *Richard M. Daley was from 1981 to 1989 the State's Attorney of Cook County and during that period was responsible for the policies, practices and customs of that office. From 1989 to the present, Defendant Daley has been and continues to be the Mayor of the City of Chicago and as such is a chief policymaker for the City of Chicago, its Police Department, City Council, and Police Board and was and is therefore responsible for the policies, practices, and customs complained of herein. Defendant Daley was acting in the scope of his employment at all times material to this complaint and is sued in his individual capacity.*

11) *Defendant Jane Byrne was, from 1979 to 1983, the Mayor of the City of Chicago, and as such was a chief policymaker for the City of Chicago, its Police Department, City Council, and Police Board and was responsible for the policies, practices, and customs complained of herein. Defendant Byrne was acting in the scope of her employment at all times material to this complaint and is sued in her individual capacity.*

12. From 1990 to 1998, Defendant Gayle Shines was the Director of the Office of Professional Standards of the Chicago Police Department. Her direct supervisor was the Chicago Police Superintendent. *She was appointed by Defendant Daley* and engaged in the conduct complained of in the course and scope of her employment and is sued in her individual capacity.

13. Defendant City of Chicago is an Illinois municipal corporation, and as such is responsible for the policies, practices and customs of the Chicago Police Department, its Office of Professional Standards, its Personnel Division, its Detective Division, and its Superintendent of Police, as well as those of the Mayor his office, *and his City Council*, the Corporation Counsel

and her Office, and the Chicago Police Board. The City of Chicago is and/or was the employer of each of the Defendant Officers and Police and *governmental* officials. The City of Chicago is responsible for the acts of the Defendant Officers and *Defendant* police and *governmental* officials while employed by the City of Chicago and while acting within the scope of their employment.

14) *Defendant Richard Devine, from 1981 to 1983, was the First Assistant State's Attorney of Cook County and as such answered directly to Defendant Daley. From 1988 to 1997 Defendant Devine was, together with unsued co-conspirator William Kunkle, and other attorneys in his law firm, counsel for Defendants Jon Burge, John Byrne, Peter Dignan and other Area 2 co-conspirators, in the Andrew Wilson and several other civil torture cases. As such, he and Kunkle were Special Assistant Corporation Counsel, paid by, and agents for, the City of Chicago, its Mayor, City Council, and Corporation Counsel's Office. From 1997 to the present, Defendant Devine has been the State's Attorney of Cook County, and as such is responsible for the policies, practices and customs of the State's Attorneys' Office. He engaged in the conduct complained of in the course and scope of his employment and is sued in his individual capacity.*

15. Defendant Cook County is a governmental entity within the State of Illinois, which consists in part of its Cook County State's Attorney's Office (hereinafter referred to as the "SAO"). At *certain* times relevant to this action, Cook County and the Cook County State's Attorney's Office were the employers of Defendants Devine *and* Daley, and are necessary parties to this lawsuit.

16) *Unsued co-conspirator William Kunkle was, from 1981 to 1983, the First Deputy State's Attorney of Cook County under Defendant Richard Daley and answered directly to*

Defendant Devine during that period. In 1983, Kunkle became First Assistant State's Attorney and as such answered directly to Defendant Daley. In 1986 and 1987, Kunkle, then in private practice with Defendant Devine, was appointed Special Assistant State's Attorney of Cook County by Defendant Daley, and as such headed the re-prosecution of Andrew Wilson. From 1988 to 1997 Kunkle was, together with Defendant Devine, and other attorneys in his law firm, counsel for Defendants Jon Burge, John Byrne, Dignan, and other Area 2 co-conspirators in Andrew Wilson and several other civil torture cases. As such, he and Devine were Special Assistant Corporation Counsel, paid by, and agents for, the City of Chicago, its Mayor, City Council, and Corporation Counsel's Office.

17) Unsued co-conspirator Richard Brzeczek was, from 1980 to 1983, the Superintendent of Police for the City of Chicago. As such he answered directly to Defendant Mayor Jane Byrne and was responsible for the policies, practices, and customs complained of herein. Unsued co-conspirator Joseph McCarthy was a Deputy Superintendent specially appointed by Defendant Byrne, while unsued co-conspirators Thomas Lyons, William Hanhardt and Milton Deas were Police command personnel who answered to Superintendent Brzeczek.

18) Unsued co-conspirator Fred Rice was, from 1983 to 1987, the Superintendent of Police for the City of Chicago and was therefore responsible for the policies, practices, and customs complained of herein.

19) Unsued co-conspirators Gregory Ginex, Michael Angorola, Frank Deboni and Lawrence Hyman were high ranking Assistant State's Attorneys who answered directly to Defendants Daley and Devine and co-conspirator Kunkle.

20. At all times relevant to this action, each of the named Defendants acted in the scope

of employment, and under the color of the laws, regulations, and customs of the State of Illinois. Each Defendant's actions constituted "state action" as defined under federal law.

III. FACTUAL ALLEGATIONS

21) *On May 29, 1973, Defendant Jon Burge, a detective on the midnight shift, tortured African-American suspect Anthony Holmes, using an electric-shock box, suffocation with a bag, beating and racial epithets at Area 2. This is the first known case of torture by electric-shock and bagging at Area 2.*

22) *One of the arresting officers was Area 2 detective Michael Hoke.*

23) *Holmes' allegations of torture were called to the attention of the Cook County State's Attorneys' Office in 1974. No investigation or action was taken against Burge, and he and others at Area 2 continued to torture suspects for the next decade.*

24) *On February 9, 1982, two white Chicago police officers were shot and killed on the southside of Chicago. The perpetrators of the crime were African-American.*

25) *In response, Defendant Jane Byrne, co-conspirator Brzeczek and the Chicago Police Department initiated one of the largest and most aggressive manhunts in Chicago history to find the killers.*

26) *Defendant Jon Burge was put in charge of the manhunt on the street, and Defendant Jane Byrne's personal representative, co-conspirator and Deputy Superintendent McCarthy, supervised the operation and reported directly to Defendant Byrne.*

27) *During the manhunt, Chicago police under Burge's command engaged in the indiscriminate use of excessive force, unconstitutional entries and searches, and other*

widespread abuses against African-American citizens. One Area 2 detective called these actions a “reign of terror” which he likened to Kristallnacht.

28) These unconstitutional and illegal activities included the bagging¹ and beating of innocent African-American citizens, including Roy Brown, Walter Johnson, Paul Mike, Alphonso Pinex, and Larry Milan, and caused outrage in Chicago’s African-American community.

29) Defendant Jane Byrne met with Defendant Burge on at least three occasions during the manhunt and encouraged, approved, and ratified this unconstitutional and illegal conduct by Burge and the Chicago Police Department which she characterized as her plan for “direct action.”

30) Defendant State’s Attorney Daley and his First Assistant, Defendant Richard Devine, by, through, and with their close subordinates, co-conspirators Kunkle, Angarola, Ginex and Hyman, also closely monitored the manhunt directed and implemented by Defendant Burge, and received regular reports from Angarola, Kunkle, Ginex and Hyman, who, at various times, were at Area 2, and knew or should have known of this reign of terror led by Burge.

31) On February 12, 1982, Defendant Burge and Area 2 detectives under his command arrested Donald White, who they erroneously concluded was a suspect in the murders, took him to police headquarters, and, in the presence of police command personnel, tortured him by repeatedly beating and bagging him. After White was shown not to be involved in the crime and gave up the name of Andrew Wilson to his torturers, he was placed in protective custody by the Cook County State’s Attorneys’ Office in order to obtain and maintain his silence concerning his torture and abuse.

¹ Bagging was the placing of a bag or typewriter cover over the head of a suspect and cutting off his air supply, often while beating or kicking him in the chest area.

32) *Defendants Daley and Devine were briefed about the White arrest, interrogation, and placement in protective custody, and knew or should have known that he was abused by Burge and his men, and that he was being placed in protective custody to obtain and maintain his silence.*

33) *In the early morning of February 14, 1982, Andrew Wilson was arrested by Defendant Burge and numerous other Area 2 and Gang Crimes officers for the murder of the two Chicago police officers. Co-conspirator Deputy Superintendent McCarthy participated in the arrest and returned to Area 2, where he was present with co-conspirators Deputy Superintendent Lyons, Area 2 Commander Milton Deas, and Chief of Detectives William Hanhardt. They directly reported to Defendant Jane Byrne and co-conspirator Brzeczek concerning the arrest.*

34) *At some time or times on February 14, 1982 Defendant Jane Byrne was also present at Area 2, as was co-conspirator Brzeczek.*

35) *Wilson's arrest, in significant detail, was also reported to Defendants Devine and Daley on the morning of February 14, 1982.*

36) *Andrew Wilson was tortured by Burge and several of his detectives throughout the day and evening of February 14, 1982. Among the techniques that they used were electric-shocking on the genitals, ears, and other parts of the body with a black box, suffocating with a plastic bag, burning on a radiator, and beating. Wilson repeatedly screamed during the torture, had visible injuries to his face and body, and his torture was therefore well known to all present at Area 2 on February 14, 1982.*

37) *Numerous high ranking Assistant State's Attorneys, including co-conspirators Angarola, Ginex, and Hyman, were present at Area 2 during Wilson's interrogation and torture,*

and Kunkle was involved by telephone. Hyman participated in the interrogation, was informed of the torture by Andrew Wilson while it was still in progress, and sent Wilson back to Burge for additional interrogation and abuse. All of these high ranking assistants to Defendants Daley and Devine knew or should have known of Wilson's torture, and were reporting to Daley and Devine concerning Wilson's arrest and interrogation.

38) Additionally, given their knowledge of the rampant abuses during the manhunt, the anger and motive for revenge that was prevalent among Burge, his men at Area 2 and in the Police Department in general due to the murder of two of their fellow officers, Defendants Daley, Devine, Jane Byrne, and their co-Defendants and co-conspirators knew, from the moment they were informed of Wilson's arrest, that there was a great likelihood that Wilson would be abused and tortured at Area 2 by Defendant Burge and his men.

39) Defendants Daley, Devine, and Jane Byrne and their co-conspirators and co-Defendants therefore knew or should have known of Wilson's torture and abuse by Burge and his men at Area 2 on February 14, 1982 and did absolutely nothing to stop his torture and abuse.

40) On February 17, 1982, Dr. John Raba, the Director of Cermak Medical Services at Cook County Jail, after examining Andrew Wilson, wrote a detailed letter to co-conspirator Superintendent Brzeczek documenting Wilson's physical injuries, setting forth Wilson's allegations that he had been tortured with electric shock and radiator burning, and demanding a complete investigation.

41) Co-conspirator Brzeczek concluded that Burge and his men had committed criminal conduct in their interrogation of Andrew Wilson and called a meeting with his command

personnel who were present at Area 2 during Wilson's torture, including McCarthy, Deas and Lyons, at which he chastised them for permitting the torture to happen.

42) Concerned that an investigation of Wilson's torture would jeopardize Wilson's prosecution, Brzeczek took the highly unusual step of writing directly to Defendant Daley, enclosing the February 17th Raba letter demanding an investigation, and informing Daley that he would not investigate the allegations unless and until Daley informed him that he should do so.

43) Defendant Daley received the letter, shared and discussed it with Defendant Devine, and with his co-conspirators, including Kunkle, Angarola, and, sometime later, Deboni.

44) Defendant also shared the information in his and Dr. Raba's letter with Defendant Jane Byrne.

45) Defendants Daley and Devine, and co-conspirators Kunkle and Angarola, were fully aware that Brzeczek's letter set forth criminal conduct by Burge and other Chicago police detectives and officers, and they knew or should have known that co-conspirator ASA Larry Hyman was complicit in the torture, and that there was a wealth of physical, medical, and testimonial evidence which supported Wilson and Raba's allegations, yet they did not direct Brzeczek or the police department to conduct a criminal and/or administrative investigation, conducted no criminal investigation of their own, did not empanel or present evidence to a grand jury, did not charge or prosecute Burge or anyone else for criminally torturing Wilson, and did not refer the investigation to the U.S. Attorney, the Illinois State Police, or the Illinois Attorney General for investigation and prosecution.

46) *As a further direct result of Defendants Daley's and Devine's refusal to respond to co-conspirator Brzeczek, Defendant Jane Byrne, co-conspirator Brzeczek, the Chicago Police Department and its Office of Professional Standards indefinitely suspended all investigations into the allegations of torture and abuse made against Burge and his men, both by Wilson and Raba, and by numerous other African-American citizens who were tortured and abused during the manhunt.*

47) *Defendants Daley and Devine constructed a false and pre-textual excuse for not investigating and prosecuting Burge or any of the other police officers who abused Wilson - - - that Wilson would not testify before a grand jury - - - and instead approved the assignment of Kunkle and Angarola to prosecute Wilson and to defend Burge and his confederates against Wilson's truthful claims, made in a motion to suppress his confession, that he was tortured into confessing.*

48) *Despite this knowledge, Defendants Daley and Devine, together with their co-conspirators Kunkle and Angarola, nonetheless also decided to, and did, pursue the death penalty against Andrew Wilson.*

49) *From the time that the manhunt began through the arrest of Andrew Wilson, the receipt and discussions of the Brzeczek letter, the decisions not to contact Brzeczek or to investigate and prosecute, and to proceed with the prosecution of Wilson with the use of the false and perjured testimony of, inter alia, Hyman, McCarthy, Burge, and his men, there were, on information and belief, memoranda, notes, and other written communications between and among Defendants Daley, Devine, Kunkle, DeBoni, Angarola, Hyman and other co-Defendants and co-conspirators which documented these events and decisions.*

50) *This documentation, including the original copy of the Brzeczek letter which contained a received stamp from Defendant Daley, no longer exists, and, on further information and belief, was destroyed by Defendants Daley, Devine, and their co-conspirators Kunkle, Angarola, Hyman, and others.*

51) *With the knowledge and approval of Defendants Daley and Devine, co-conspirators Kunkle and Angarola knowingly presented the false and perjured testimony of Defendant Burge and co-conspirators Hyman, Deputy Superintendent McCarthy and other Area 2 torturers at this motion and at trial, and suppressed all of the evidence and documentation of torture and abuse of which they had knowledge, including the Brzeczek letter and the knowledge that he was an exculpatory witness, from Wilson, his attorneys, and the Court. Additionally, their failure to investigate and prosecute prevented the discovery and development of additional evidence of torture and abuse by Defendant Burge and his men at Area 2 which was also exculpatory to Wilson.*

52) *The actions and inactions of Defendants Daley, Devine and their co-conspirators in refusing to investigate or prosecute, in defending the criminal actions of Defendant Burge and his confederates, in suppressing the highly exculpatory Brzeczek evidence, in constructing a false and pre-textual reason for refusing to investigate or prosecute, and, on information and belief, destroying the original of the Brzeczek letter and other related exculpatory evidence, constituted obstruction of justice in aid of Defendant Burge's continuing practice of torturing suspects and coercing evidence to obtain wrongful convictions.*

53) *Defendant Byrne and co-conspirators Brzeczek, McCarthy, Lyons, Deas and Hanhardt did not investigate, discipline, suspend or terminate Defendant Burge and his fellow*

Area 2 torturers, but rather officially commended him and his entire Unit for their work in arresting and interrogating Wilson. This also constituted obstruction of justice in aid of Defendant Burge's continuing practice of torturing suspects and coercing evidence to obtain wrongful convictions..

54) In May of 1983, Defendant Daley also officially and publicly commended Burge for his work on the Wilson case.

55) From February of 1982 to November of 1983, numerous additional suspects alleged that Defendants Burge, John Byrne, Dignan and their confederates at Area 2 tortured them with electric shock, baggings, mock executions, and beatings, often while using racial epithets. Assistant State's Attorneys took statements from these torture victims and presented false and perjured testimony at hearings and trials. These Assistant State's Attorneys included co-conspirator Henry Simmons. The alleged torture victims included:

- a. Michael Johnson;*
- b. Lee Holmes*
- c. Rodney Benson;*
- d. Stanley Wrice;*
- e. Eric Smith;*
- f. Alonzo Smith;*
- g. James Andrews*
- h. Reginald Mahaffey;*
- i. Jerry Mahaffey;*
- j. Gregory Banks;*
- k. David Bates*

56) Although all of these victims were prosecuted by the Cook County State's Attorneys Office, Defendants Daley, Devine, and Byrne and their co-conspirators suppressed the exculpatory Brzeczek and all the other related testimonial and documentary evidence described above from all of these torture victims. Additionally, their failure to investigate and prosecute

prevented the discovery and development of additional evidence of torture and abuse by Defendant Burge and his men at Area 2 which was also exculpatory to these victims.

57. On or about October 26, 1983, Darrin Ross was shot and killed by A.D. McChristian in A.D.'s car, and the Area 2 Violent Crimes Unit *and its "Midnight Crew,"* under the direct supervision and control of Defendants Burge and *John* Byrne, and with the participation of Defendants Dignan, Grunhard, Bosco, Binkowski, Madigan, and McWeeny, commenced an investigation into this homicide.

58. In pursuit of this investigation, Defendants McWeeny and Madigan, at the direction and under the supervision of Defendants Burge and Byrne, threatened and coerced A.D. McChristian's brother, Tyrone McChristian, to falsely implicate Plaintiff as a possible accomplice in the homicide.

59. Despite the fact that the Defendant Officers knew that Tyrone McChristian's statement was false and coerced, Defendant McWeeny reduced this statement to an official police report. McChristian has subsequently recanted his statement.

60. In the early morning hours of November 2, 1983, Defendants Byrne, Dignan, Bosco and Binkowski, together with co-conspirator Area 2 detectives Edmund Leracz, Donald Degmon, and Francis Gitrich, went to an apartment on the south side of Chicago and arrested the Plaintiff without probable cause.

61. During the arrest, Defendant Byrne called Plaintiff's fiancé a "bitch" and a "motherfucker;" Defendants Byrne and Dignan pointed guns at her head; Defendant Dignan called Plaintiff a "nigger," placed a shotgun to Plaintiff's head and threatened to blow his head off; and Defendant Grunhard assaulted Plaintiff with a crowbar.

62. Plaintiff was then placed in a detective car with Defendants Dignan, Byrne and Grunhard and transported to the area of 80th and Phillips Streets. During the ride, Defendant Dignan said, “nigger, where’s A.D.?” told Plaintiff that they had “scientific ways” of getting him to talk, and that he was in for “the hardest day of his life;” and hit Plaintiff on the knee with his flashlight.

63. Plaintiff was then taken to Area 2, placed in an interrogation room and interrogated about the Ross homicide by Defendants McWeeny and Grunhard. During this interrogation, McWeeny and Grunhard suggested inculpatory answers. Defendant Bosco entered the room with an electrical cattle prod in a bag, showed it to Plaintiff, said “nigger, you going to tell us where A.D.’s at;” Bosco then pointed the cattle prod at Plaintiff and said that he would “talk before the day was over.”

64. Plaintiff was then transported through a viaduct or tunnel to a remote area near a body of water in the vicinity of 123rd and Torrence Streets by Defendants Byrne, Dignan and Grunhard. They were followed in another police car by Defendants Bosco and Binkowski, who blocked the entrance to the viaduct with their police vehicle.

65. Defendants Byrne, Dignan and Grunhard then took Plaintiff out of the car, questioned him about the Ross homicide and the whereabouts of A.D. McChristian.

66. When Plaintiff refused to answer, the Defendants performed a mock execution. After appearing to place a shell in his shotgun, Dignan placed the shotgun in Plaintiff’s mouth, and said “nigger, where’s A.D.?” After Plaintiff did not reply, Grunhard said “shoot him,” and Dignan pulled the trigger, causing the gun to click rather than discharge. They then repeated this mock execution two more times.

67. Defendants Byrne, Dignan and Grunhard then attempted to suspend Plaintiff, who was handcuffed behind his back, in the air by his handcuffs, while they questioned him and called him “nigger.”

68. Defendant Byrne then forced Plaintiff at gunpoint into the back seat of the police vehicle, and, while Plaintiff lay there handcuffed, Byrne pulled down Plaintiff’s pants, again called him “nigger” and questioned him about the murder and the whereabouts of A.D. When Plaintiff again refused to cooperate, Byrne electric shocked him on the testicles and penis with the cattle prod.

69. Byrne repeated the shocking over and over while Dignan restrained Plaintiff’s feet, and they continued to interrogate Plaintiff about A. D.’s location and the Ross homicide.

70. Finally, after Byrne called Plaintiff a “strong nigger,” threatened to turn the cattle prod on “high,” and shocked Plaintiff again, Plaintiff finally broke, agreed to say anything the Defendants wanted him to say, and answered their questions with information that they had previously supplied him during their questioning.

71. Defendants Byrne, Dignan and Grunhard then transported Plaintiff to the auto pound in an attempt to obtain his identification of A.D.’s car and to further question Plaintiff about the homicide. Again, Defendants Bosco and Binkowski followed in their police auto.

72. En route to the pound, Plaintiff was threatened with the cattle prod, so he described A.D.’s car. At the pound, Plaintiff refused to answer further questions, and after Defendants Byrne, Dignan and Grunhard forced him back into the police car, Byrne again shocked him on the testicles while Dignan held his hand over Plaintiff’s mouth to keep him from screaming out.

73. Plaintiff then gave a false and coerced statement to Defendant McWeeny, repeating

the information previously supplied to him by Defendants Byrne, Dignan, Grunhard and McWeeny, and thereby falsely implicating himself as an accomplice to A.D. McChristain.

74. Plaintiff then repeated this false and coerced statement to *unsued co-conspirator and* assistant state's attorney Henry Simmons, in the presence of Defendant McWeeny, at Area 2.

75. The interrogation and torture of Plaintiff in pursuit of a confession which was constructed by the Defendant torturers and interrogators and fed to him after he was broken, was part of a long-standing pattern and practice of similar acts of racially motivated torture, including electric shock, mock executions and Russian roulette, suspensions, and baggings under the supervision, and with the encouragement, participation and ratification of Defendant Burge. Burge was present at Area 2 as the commanding officer of the Defendants on November 2, 1983, was in charge of the Ross homicide investigation and the interrogation of the Plaintiff; and thereby supervised, encouraged, participated in, failed to prevent, and ratified the actions of the Defendants herein, as alleged more specifically above, as part of said pattern and practice.

76. Additionally, Defendant Martin, as Commander of Area 2 on November 2, 1983, was Burge's direct supervisor, was, on information and belief, present at Area 2 on November 2, 1983; was aware of the pattern and practice of torture at Area 2, which included at least six other cases of torture from September of 1983 through November of 1983; and thereby encouraged, approved, failed to prevent, and/or ratified Plaintiff's torture and false and constructed confession.

77. Plaintiff's false admissions, which were coerced, constructed and manufactured by the Defendant Officers, were memorialized in false official reports, and presented to prosecuting attorneys who relied upon and presented this false, coerced and manufactured evidence

throughout Plaintiff's prosecution.

78. Defendants *John* Byrne, Dignan, Grunhard, Bosco, Binkowski, McWeeny, and conspirators Gitrich and Simmons also presented this fabricated, coerced and totally unreliable evidence at Plaintiff's motion to suppress hearings and trials through false and perjured testimony.

79. Defendants Burge, *John* Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski and Martin, together with their co-conspirators, also suppressed from the prosecutors who prosecuted Plaintiff, from the judges and juries who heard his case, and from the prosecutors and judges who prosecuted and heard Plaintiff's appeals and motions to suppress, that the admissions they attributed to Plaintiff were false and totally unreliable, coerced through torture, constructed and manufactured by them, and were a product of a pattern and practice of torture and abuse at Area 2 which they commanded, supervised and implemented; additionally they suppressed, committed perjury about, and destroyed the physical implements of this pattern and practice of torture, including the cattle prod and shotgun used against Plaintiff, and the electric shock box, plastic bags, typewriter covers, and handguns used by them against numerous other victims of their pattern and practice of torture.

80) *Defendant Daley, despite his knowledge of the exculpatory evidence described in paragraphs 42-44 and 47-50 above, and having notice that Defendant Burge and other Area 2 detectives had tortured Wilson, were accused of torturing other suspects, and that Plaintiff Cannon was alleging that he was, like Wilson, tortured by electric shock in order to obtain his confession, nonetheless publicly attacked Plaintiff Cannon as a parole violator, approved the decision of his office to seek the death penalty in Plaintiff's case, and, with Defendants Devine*

and Jane Byrne and their co-conspirators, including Kunkle, Angarola, Hyman, McCarthy, Lyons and Deas, also suppressed the exculpatory Brzeczek and all the other related testimonial and documentary evidence described above from Plaintiff Cannon, his lawyer, the Assistant State's Attorneys prosecuting his case, and the Court during his prosecution. Additionally, their continuing failure to investigate and prosecute Burge, Byrne, Dignan, and the other Area 2 torturers, prevented the discovery and development of additional evidence of torture and abuse by Defendants Burge, John Byrne, Dignan and other Area 2 torturers that would have also been exculpatory to the Plaintiff.

81. On November 7, 1983, the Office of Professional Standards of the Chicago Police Department ("the OPS") opened an "investigation" into Plaintiff's allegations of torture. The complaint was forwarded to Commander Martin. Neither Martin nor the OPS took any disciplinary action against any of the Defendant Officers, and nearly a year later, the OPS entered "not sustained" findings.

82. Prior to Plaintiff's criminal trial in 1984, the trial judge, relying on the police Defendants' and their co-conspirators' false and perjured testimony denying torture, *and without the exculpatory torture evidence suppressed by the Defendants and their co-conspirators*, denied Plaintiff's motion to suppress his coerced statement; this coerced and fabricated "confession" was presented by the prosecution as the only evidence against him at the 1984 trial and provided the basis for his conviction on an accountability theory for the murder of Darrin Ross. Absent the Defendants' coercion, torture, fabrication, *and suppression and destruction of evidence*, Plaintiff would neither have been prosecuted for, nor convicted of, a crime he did not commit.

83. In November of 1984 and February of 1985, OPS Director David Fogel

secretly provided summaries of numerous OPS cases of electric shock torture, including those of Plaintiff and Andrew Wilson, who was electric shocked, bagged and otherwise tortured by Defendant Burge, to Police Superintendent Fred Rice, who took no action. Rice, Fogel, and successive Superintendents and OPS Directors, including Defendants Martin and Shines, and the Defendant City and its lawyers, suppressed these summaries and most of the files themselves from the Plaintiff and all other criminal and civil litigants until they were discovered in boxes produced for inspection by the City in August of 2004.

84) Defendants Daley and Devine and their co-conspirators' obstruction of justice and suppression of all the highly exculpatory evidence set forth above were an additional direct and proximate cause of Plaintiff Cannon's torture and wrongful conviction and imprisonment as well as the torture and wrongful conviction of numerous other victims who were tortured and prosecuted after February of 1982, including, but not limited to, those set forth in paragraph 54 above, as well as Leroy Orange, Stanley Howard, Aaron Patterson, Madison Hobley, Philip Adkins, Alphonso Pinex, Michael Tillman, and Ronald Kitchen.

85. In 1987, Plaintiff filed a 42 U.S.C. § 1983 action alleging excessive use of force by Defendants Byrne, Dignan, and Grunhard for their torture and abuse on November 2, 1983. Solely and exclusively because the Defendants successfully suppressed, destroyed, and covered up, *inter alia*, their torture of Plaintiff, numerous other cases of torture, the implements of torture, and *the Brzeczek and other related evidence, and refused to prosecute Burge and his men for the torture of Andrew Wilson and other crimes*, Plaintiff accepted a nuisance value settlement of \$3000, a tiny fraction of what the claim was truly worth.²

² In contrast, the City has over the past few years offered an average of nearly \$5 million to each of four similar torture victims who were also wrongfully convicted.

86) *In 1987 the Illinois Supreme Court reversed Andrew Wilson's conviction on the basis that his confession was physically coerced from him. Defendant Daley and his co-conspirator, William Kunkle, received specific notice of this decision and its basis but nonetheless again refused to investigate or prosecute Defendant Burge or any of the other Area 2 Detectives implicated in Wilson's torture, but rather again chose to prosecute Wilson and again seek the death penalty.*

87) *Directly thereafter, in furtherance of their continued conspiracy to suppress evidence of torture by Burge and his men and to obstruct justice, Defendants Daley and Devine and co-conspirator Kunkle arranged for Kunkle, then a partner in private practice with Defendant Devine, to be named a Special State's Attorney, paid with Cook County taxpayer funds, to re-prosecute Wilson.*

88) *In August of 1988, again in furtherance of their continued conspiracy to suppress evidence of torture by Burge and his men and to obstruct justice, Defendants Daley and Devine and co-conspirator Kunkle, together with co-Defendant Burge and Defendant Superintendent Leroy Martin, arranged, through Devine and Daley's political associate, Alderman Ed Burke, for Kunkle, still a partner in private practice with Defendant Devine, and their law firm, to be named Special City Corporation Counsel, paid with City of Chicago taxpayer funds, to represent Burge and several of his henchmen in a civil rights action brought by Wilson in the U.S. District Court for the Northern District of Illinois. This arrangement was solely done as a favor to Defendant Martin and his patron, Defendant Burge, and was neither required by a conflict of interest or City regulation.*

89) *After Defendant Daley became Mayor in 1989, he received additional notice of the*

pattern and practice of torture and abuse by Burge and his confederates at Area 2, including from the highly publicized 1989 Andrew Wilson civil torture trials, at which Burge was represented by co-conspirator Kunkle and Defendant Devine, acting on behalf of the City as Special Corporation Counsel; from the 1989 and 1990 City Council hearings on police brutality and torture; from a 1990 Amnesty International Report calling for “a full inquiry into allegations that Chicago police systematically tortured criminal suspects from 1972 to 1984,” and from judicial admissions filed on January 22, 1992 by the City and Defendant Martin in the Burge Police Board proceedings that there was an “astounding pattern or plan” on the part of Burge and his confederates “to torture certain suspects, often with substantial criminal records, into confessing to crimes.”

90) *Nonetheless Defendant Daley did not direct or seek a criminal investigation of Burge and his confederates at Area 2 but instead publicly defended his and Defendant Devine’s previous decision not to prosecute Burge for the torture of Andrew Wilson, asserting his and co-Defendant Devine’s false and pre-textual reason for their refusal to do so, and agreed to be a witness on Burge’s behalf at Wilson’s civil torture trial.*

91. In 1990, after Plaintiff was convicted, and after the Plaintiff accepted the settlement, the OPS completed an investigation into allegations of torture of suspects, including Plaintiff, at Area 2. *In the first Section* of a secret report, approved by the Director of the OPS, *Defendant Shines*, and forwarded to Defendant Superintendent Leroy Martin, the OPS found that from 1973 to 1985 there was a practice of systematic abuse of suspects held in custody at Area 2, including Plaintiff, and that certain Area 2 command personnel were aware of such abuse and condoned it. The OPS further found that this practice included psychological techniques and planned torture,

and that Area 2 command personnel were aware of the systematic abuse and encouraged it either by actively participating in it or by failing to take any action to stop it. Command personnel at Area 2 during part or all of that time included Defendants Burge and Martin. *This Section of the Report, which later became known as the Goldston Report*, also collected, identified, and detailed numerous cases of torture and abuse at Area 2, *including Plaintiff Cannon's*.

92. In another section of this Report, the OPS also found that Burge and two other Area 2 detectives tortured Andrew Wilson, *inter alia*, with electric shock, and recommended that Burge and two of his men be fired.

93. Defendant Superintendent Martin and other command personnel delayed, obstructed, and otherwise undermined the OPS investigation, the Report, and its findings and conclusions set forth above, *inter alia*, by suppressing the findings that Wilson was tortured and by refusing to suspend, transfer or remove Burge either before, or for nearly a year after, the findings of the OPS were first made known to them in November of 1990.

94. Defendant Martin and other command personnel further delayed, obstructed, and otherwise undermined the OPS investigation, report, findings and conclusions set forth above, *inter alia*, by suppressing the findings that there was systematic abuse at Area 2, which implicated Defendants Martin, Burge, the Officer Defendants, and other Area 2 detectives. This suppression prevented Plaintiff from obtaining highly exculpatory evidence for use in his criminal proceedings and in civil litigation.

95) *During this period of time, a number of additional suspects, including thirteen year old Marcus Wiggins, were tortured by electric-shock and otherwise abused under the direct command and supervision of Defendants Burge and John Byrne, and with the participation of*

Defendant McWeeny and co-conspirators Maslanka and Paladino.

96. The *secret OPS* report and its findings were ordered publicly released by Federal Court order in February of 1992, and Defendant Martin, together with Mayor Richard M. Daley, publicly attempted to discredit and undermine the report and its findings as “unsubstantiated rumors,” and did not discipline Defendants Byrne, Dignan, and Grunhard for their role in this pattern and practice of torture, or otherwise act to implement the Report’s findings.

97) *On or before February 7, 1992, Defendant Daley was specifically informed of the OPS Goldston Report findings of “systematic” Area 2 torture that was “condoned and participated in” by Area 2 command personnel. Defendant Daley knew or should have known that Defendant Martin was the commanding officer at Area 2 and Defendant Burge’s direct supervisor during part of the time the Report found there to be “systematic” torture, and that Defendant Martin therefore had a motive and the intent to suppress and discredit the Report and its findings.*

98) *Despite this and all that he previously knew about torture by Burge and his men at Area 2, and despite the findings of the Report itself, Defendant Daley did not seek an independent federal investigation; direct Defendant Martin to initiate a criminal investigation or to open disciplinary proceedings against the Area 2 detectives, supervisors and command officers identified in the Report; or seek the prosecution of Burge and his confederates.*

99) *Instead, in a joint effort with Defendant Martin, Defendant Daley sought to publicly discredit the Report and defend Martin’s prior suppression of it, saying “these are only allegations . . . rumors, stories, things like that” while denying that the torture at Area 2 was “systematic.”*

100. *Previously*, as States Attorney of Cook County from 1981 through 1988, Richard M. Daley had specific notice of a pattern and practice of torture and abuse at Area 2 by Burge, *John* Byrne, Dignan, and others, (including Plaintiff's and more than 50 other cases) and refused to prosecute Burge, Byrne, Dignan or any other Area 2 detective, despite being presented with specific evidence of torture by Police Superintendent Richard Brzeczek *and others, as set forth above*, well before Plaintiff was tortured.

101. Additionally, Defendant Martin, Defendant OPS Director Shines, and other command personnel, in violation of police regulations, refused to investigate numerous other allegations of police torture which were brought to their attention, including allegations of electric shock and abuse made by electric shock victim Melvin Jones against Defendants Burge, and McWeeny, despite the findings made in the Goldston Report, and other specific requests to do so.

102. In January of 1992, Defendant Martin and the City judicially admitted before the Police Board that Burge and others under his command engaged in an "astounding pattern and plan" of torture, particularly including the use of electric shock.

103. In February of 1993, the Chicago Police Board fired Jon Burge for torturing Andrew Wilson, *inter alia*, with electric shock. These findings became final in December of 1995.

104. In September of 1988, Defendant Devine, together with law partner William Kunkle, and their law firm, were retained by the Defendant City of Chicago to represent Defendant Jon Burge and several Area 2 detectives, including John Yucaitis and Patrick O'Hara, in the civil rights lawsuit brought against them and the City of Chicago by Area 2 torture victim

Andrew Wilson.

105. For the next eight years, Defendant Devine, co-conspirator Kunkle, and their law firm continued to represent Defendant Burge, John Yucaitis, Patrick O'Hara and the other Area 2 defendants in the *Wilson* civil cases, as well as in the Police Board Proceedings against Burge, Yucaitis and O'Hara, wherein they were retained *and paid* by the Fraternal Order of Police (FOP). Additionally, Defendant Devine, *co-conspirator* Kunkle and their law firm were retained by the Defendant City of Chicago to represent Defendants Burge, *Byrne and Dignan* in *several other* civil rights torture cases where a pattern and practice of torture was alleged. As a result of this representation, Defendant Devine, *co-conspirator* Kunkle and their law firm received over one million dollars in attorney's fees from the City of Chicago and the FOP.

106) These successive appointments by the City were facilitated and approved by Defendant Daley and Devine's political associate, Alderman Ed Burke, in furtherance of Defendants Daley and Devine and co-conspirator Kunkle's continued conspiracy to suppress evidence of torture by Burge, John Byrne, Dignan and their Area 2 co-conspirators and to obstruct justice, and were required neither by a conflict of interest nor City ordinance.

107. From 1988 to 1996, Defendant Devine, *co-conspirator* Kunkle, and their law firm were informed of a wealth of *additional* compelling evidence that their clients, including *Defendants Burge, Byrne and Dignan*, were centrally involved in a pattern and practice of torturing suspects, including Plaintiff, at Area 2, and Devine, Kunkle, and their co-counsel, together with Defendants Burge, *John Byrne and Dignan and Area 2* detectives Yucaitis and O'Hara, made numerous litigation decisions designed to protect *them and their fellow Area 2 torturers* from criminal, civil and administrative liability in the face of that evidence.

108. In 1997, Defendant Devine became the State's Attorney of Cook County. *In furtherance of the continued conspiracy to suppress evidence of torture by Burge, John Byrne, Dignan and their fellow torturers, and to obstruct justice*, and acting with a clear conflict of interest and under the color of his authority of State's Attorney, Defendant Devine has continued, from 1997 to the present, to protect the interests of his Area 2 clients, particularly Defendants Burge, John Byrne and Dignan, to cover up their central role in the pattern and practice of torture, and to suppress his and Defendant Daley's and co-conspirator Kunkle's role in this conspiracy *inter alia*, by:

- a. making false public statements in which he discredited evidence of torture against his clients and other Area 2 Defendants including evidence presented by Plaintiff and other Area 2 victims, whereby they sought new suppression hearings, new trials, new sentences, pardons and/or clemency on the basis that false confessions were tortured from them;
- b. making false statements to public officials in which he discredited the evidence of torture against his clients and other Area 2 Defendants;
- c. refusing to investigate the allegations that his clients and other Area 2 and Area 3 detectives were central actors in a pattern and practice of torture and abuse which included the torture of Plaintiff, and obstructing all attempts to so investigate;
- d. suppressing evidence which further established that his clients, and other Area 2 and Area 3 detectives were central actors in the pattern and practice of torture which included Plaintiff's torture;

- e. *Making false and incomplete statements and giving false and incomplete sworn testimony to a Special Prosecutor who was appointed by the Chief Judge of the Criminal Court of Cook County to investigate Area 2 torture, and giving false and incomplete deposition testimony concerning his, Defendant Daley's and co-conspirator Kunkle's role in this continuing conspiracy and obstruction of justice; and*
- f. otherwise using his influence and decision-making power as State's Attorney of Cook County to continue the wrongful conviction and imprisonment of Plaintiff and numerous other victims of torture at Area 2 by Defendants Burge, John Byrne, Dignan, and their fellow torturers.

109. In 1993 the OPS re-opened investigations into approximately 10 Area 2 torture cases, including Plaintiff's. After an exhaustive re-investigation, which uncovered substantial new evidence in support of the allegations, OPS investigator *Veronica Tillman* sustained numerous allegations that *Defendants John Byrne, Dignan and Grunhard* racially abused and tortured Plaintiff with the cattle prod at the torture site, and at the auto pound, and subjected him to a mock execution and suspension by his handcuffs. *OPS supervisor Carmen Christia reviewed the findings and approved them.*

110. The OPS also entered sustained findings of torture and abuse against Byrne and Dignan in five other re-opened cases, including that of death row inmate Stanley Howard.

111. From 1993 until 1998, *when she was dismissed by Defendant Daley*, Defendant OPS Director Gayle Shines, *who had previously been appointed by Defendant Daley*, under

pressure from her fellow Defendants and co-conspirators, suppressed these findings and the evidence which supported them by secreting the files in her personal office.

112) In 1996, Defendant Daley, despite the numerous allegations and sustained findings of torture and abuse against Defendant Dignan, meritoriously promoted him to the police rank of lieutenant.

113. In 1998, Defendants Hillard and Needham, with full knowledge that Defendants Burge, Byrne and Dignan, the other Defendant Officers, and other Area 2 and Area 3 detectives participated in a pattern and practice of torture and abuse of suspects, including Plaintiff, violated police regulations and obstructed justice by overturning the OPS sustained findings in Plaintiff's and the other five re-opened cases; by refusing to investigate other torture victims' claims that they had been tortured; by refusing to investigate OPS Director Gayle Shines' suppression of evidence, and by suppressing these OPS files and findings from Plaintiff and other criminal defendants.

114. In 1997, the Illinois Appellate Court ordered that Plaintiff receive a new motion to suppress hearing at which he be permitted to present all the newly discovered evidence of torture and abuse which had been uncovered since his 1984 motion to suppress hearing.

115. *At Plaintiff's remanded motion to suppress hearing, which commenced in 1999, the Plaintiff presented a wealth of newly discovered evidence of torture and abuse. The State's Attorneys' Office, rather than to again elicit the knowingly false and perjured testimony of the Defendant Officers, dismissed Plaintiff's case on April 14, 2004.*

116. On January 10, 2003, Illinois Governor George Ryan granted four Illinois death

row inmates pardons on the basis of innocence. In granting Burge death row torture victims Madison Hobley, Aaron Patterson, Leroy Orange, and Stanley Howard innocence pardons, the Governor found that:

The category of horrors was hard to believe. If I hadn't reviewed the cases myself, I wouldn't believe it. We have evidence from four men, who did not know each other, all getting beaten and tortured and convicted on the basis of the confessions they allegedly provided. They are perfect examples of what is so terribly broken about our system.

117) In early 2002, Defendant Daley's Corporation Counsel, her top assistant, and Daley's Chief of Staff, with, on information and belief, the advice and consent of Defendant Daley, considered and rejected the Chief of Staff's recommendation that they sue rather than continue to defend Defendant Burge. This decision was made despite Defendant Daley's full knowledge of the overwhelming evidence that Burge and his confederates at Area 2 had engaged in a pattern and practice of torture at Area 2, his discretion under the applicable law to terminate Burge's representation by City financed lawyers, and despite his authority as the chief executive officer of the City of Chicago to seek a criminal investigation or the intervention of the U.S. Attorney.

118) The City's publicly financed defense of Burge and his confederates has continued unabated from the date Defendant Daley became Mayor to the present and has been authorized and approved by Defendant Daley and his Corporation Counsel, despite no finding of conflict of interest, their full knowledge of Burge and his confederates' pattern and practice of torture and cover-up, and the recent findings of the Special Prosecutor that Defendant Burge and several of his confederates committed numerous criminal acts.

119) *From 1989 to 1996 Defendant Daley, together with political associate Ed Burke, authorized and approved the payments of more than \$1 million to his co-conspirators Devine and Kunkle and their law firm to defend Defendants Burge, John Byrne, Dignan and other known Area 2 torturers, and from 1997 to the present, Daley and his Corporation Counsel, have authorized and approved another \$6.5 million in fees to various politically connected law firms to continue the defense of Defendant Burge, John Byrne, Dignan, and the City in the five civil torture cases.*

120. In August and September of 2004, Defendants Burge, Byrne, Dignan, Bosco, McWeeny and Madigan invoked the Fifth Amendment as to all questions concerning the torture of Plaintiff, the coercion, construction and manufacture of Plaintiff's false confession, the coercion of Tyrone McChristian, and the torture of numerous other victims as a part of a pattern and practice of torture and abuse.

121) *Additionally, on further information and belief, from 2002 to July of 2006, Defendant Daley, by, through, and with his Corporation Counsel and several of her top assistants, and attorneys at the law firm of Hinshaw and Culbertson, whom Defendant Daley and his Corporation Counsel had retained to represent the City in the torture cases, have sought to influence the Special Prosecutor, his investigation and resultant Report, in order to protect the City, its Police Department, the Mayor, and Defendant Burge and his Area 2 co-conspirators from legal and political harm and embarrassment.*

122) *For example, Special Prosecutors Egan and Boyle have had a close political relationship with the Daley family for many years and Egan has nine close relatives, who are, or*

were, Chicago police officers, including one who worked as an Area 2 detective for Defendant Burge and participated in the arrest of one of the torture victims, Gregory Banks, whose case presented a clear basis for indictment of Defendant John Byrne for perjury and obstruction of justice.

123) Additionally, one Assistant Special Prosecutor who investigated many of the victims' cases, including those of Madison Hobley and Aaron Patterson, was, during the entire time that he worked for the Special Prosecutor, also a Special Assistant Corporation Counsel, appointed and approved by Defendant Daley and his Corporation Counsel, and in that role was at the same time he was acting as an assistant Special Prosecutor, defending the City and the Police Department in several high profile cases seeking damages for police brutality and wrongful conviction.

124) On July 19, 2006, the Special Prosecutor invoked the false pretext of the statute of limitations and returned no indictments against Defendants Burge, John Byrne, or any other Area 2 Defendant or co-conspirator, but instead issued a whitewash report which absolved Defendants Daley, Devine, Martin, Hillard, Needham and Shines of both criminal responsibility and blame.

125) While the Special Prosecutors and their Report attempted to falsely discredit the victims of Burge, John Byrne, Dignan, and their confederates, including Plaintiff and the other victims who have pending civil actions against the City, and to downplay the systemic nature of the torture and abuse, they also reached the following findings and conclusions:

- a. The evidence established beyond a reasonable doubt that "Jon Burge and at least one other officer[John Yucaitis] committed armed violence, intimidation, official misconduct and aggravated battery when they abused Andrew Wilson at

Detective Area 2 on February 14, 1982, and committed perjury when they testified at Wilson's first trial on November 9, 1982;"

b. The evidence established beyond a reasonable doubt that Area 2 detectives Anthony Maslanka and Michael McDermott abused Alphonso Pinex, and committed aggravated battery, perjury, and obstruction of justice;

c. The evidence established beyond a reasonable doubt that Area 2 Detectives James Lotito and Ronald Boffo abused Philip Adkins and committed aggravated battery against him;

d. That there were "many other cases" in which the Special Prosecutor "believed" that the victims were abused, including Melvin Jones, Shaded Mumin, and Michael Johnson, but "proof beyond a reasonable doubt is absent;"

e. The Special Prosecutors fixed the number of cases where they had such a belief of abuse as approximately half, or 73, of the 148 cases that they investigated;

f. That "the commander of the Violent Crimes Section of Detective Areas 2 and 3, Jon Burge," was "guilty" of "abus[ing] persons with impunity," and that it therefore "necessarily follows that a number of those serving under his command recognized that if their commander could abuse persons with impunity, so could they;"

g. That the allegations of, torture, "seemed to center on a crew known as the Midnight Crew." "There are a number of officers who seem to predominate relative to the number of allegations that are made, allegations that we have said that we think happened." "It centers basically around 8 to 12 policemen out of a unit of 44;"

h. That Police Superintendent Brzeczek was guilty of a "dereliction of duty" and "did not act in good faith in the investigation of Andrew Wilson," that he "believed at the time that officers at Area 2 had tortured Andrew Wilson," that "Brzeczek believed that officers in the Violent Crimes unit of Detective Area 2 had tortured Andrew Wilson," that he "kept Burge in command at Area 2, and issued a letter of commendation to all of the detectives at Area 2;"

i. That the Chief of Felony Review of the States Attorneys' Office, Lawrence Hyman, gave "false testimony" when "he denied that Andrew Wilson told him he had been tortured by detectives under the command of Jon Burge;"

j. "[T]he Superintendent of Police Department received and believed evidence

that a prisoner [Andrew Wilson] had been brutalized by the Superintendent's subordinates, that the prisoner had confessed, that those subordinates had testified under oath on a motion to suppress and before a jury and he had to believe, they testified perjuriously, that the prisoner had been sentenced to death, and that for 20 years the Superintendent still remained silent;

k. The Court of Appeals for the Seventh Circuit in its 1993 consideration of the City's liability in the Wilson civil case was misled concerning the superintendent's contemporaneous knowledge that Burge and his subordinates tortured Wilson because he concealed those views until after the case was concluded;

l. No meaningful police investigation was conducted, nor any police witness questioned in either the Wilson case, or in the Michael Johnson electric-shock case, which occurred a few months after Wilson, and had "glaring similarities" to the Wilson allegations;

m. "[S]omething should have been done about the disgrace and embarrassment [at Area 2] 24 years ago" by the Chicago Police Superintendent;

n. If action had been taken against Jon Burge at the time of the Andrew Wilson case, or even shortly thereafter, the appointment of the Special Prosecutor would not have been necessary;

o. This action, should have included, "at the very least," the Superintendent's remov[al] of Burge from any investigative command and a "complete shake-up at detective Area 2."

126) In response to the media firestorm which was created by these findings, Defendant Daley, on July 21, 2006 made a formal press statement in which he made the following binding admissions:

a. That the City "strongly supported the release" of the "Special Prosecutor's Report on the practice of abuse and torture of suspects in the 1970's and 1980's at the Calumet Police District" [Area 2] because "the public has the right to know about this shameful episode in our history;"

b. That "no suspect should be subjected to the abuses detailed in [the Special Prosecutor's] Report, and no suspect should ever be coerced into confessing to crimes he did not commit." This "fundamentally undermines our system of justice and destroys public confidence. It should never happen;"

c. That Burge and his Unit participated in a “pattern of misconduct” and that he would “apologize to anyone” for this brutality.

127) *On July 21, 2006, Defendant Daley further admitted that he had received the Brzeczek letter which he falsely asserted “suggested but did not charge abuse” while deceptively placing the primary responsibility on Brzeczek and the Chicago Police Department for refusing to prosecute Burge.*

128) *On July 21, 2006 Defendant Daley also falsely denied knowledge of torture while he was State’s Attorney or that he ignored evidence of torture to further his political career.*

129) *Defendants Burge, John Byrne, Dignan, and Grunhard were members of the “Midnight Crew” or “A Team” at Area 2 when they tortured plaintiff and numerous other victims.*

130) *The Defendants in this case and their confederates and co-conspirators have committed the following additional predicate and overt acts of obstruction of federal and state court proceedings and perjury in violation of federal and state law from 1979 to the present:*

1. 1979-1994: State Criminal Court and Federal Civil proceedings:

a. The 1982 and 1983 sworn testimony of Defendant Jon Burge, and numerous other law enforcement officials, including Area 2 detectives John Yucaitis, Thomas McKenna, Fred Hill, Dennis McGuire, Leonard Bajenski, and Joseph Dioguardi, Deputy Superintendent Joseph McCarthy, and Assistant State’s Attorney (ASA) Larry Hyman, at Andrew Wilson’s state Court criminal proceedings, denying torture and abuse;

b. The sworn testimony of Defendants Burge, John Byrne, Peter Dignan, Charles Grunhard, Ray Binkowski, Dan McWeeny and Raymond Madigan, denying torture and abuse at

numerous state Court criminal proceedings from 1980 to 1994, including, but not limited to, Willie Porch (1980); Derrick King (1980); Melvin Jones (1982); Alonzo Smith (1983); Stanley Wrice and Rodney Benson (1983); James Andrews (1984); Gregory Banks and David Bates (1985); Leonard Hinton (1985); Philip Adkins (1985); Lonza Holmes (1986); Thomas Craft (1986); Stanley Howard (1987); Shaded Mumin (1987); LC Riley (1987); Aaron Patterson and Eric Caine (1988), Michael Tillman and Stephen Bell (1988); and Tyshaun Ross and Keith Walker (1994).

c. The sworn testimony of Defendants John Byrne, Peter Dignan, McWeeny and Grunhard at their 1987 Federal Court depositions in Cannon v. Burge denying the torture of Darrell Cannon;

d. The 1988 and 1989 sworn testimony of Defendant Burge and his law enforcement confederates, including John Yucaitis, Larry Hyman, Thomas McKenna, Fred Hill, Joseph McCarthy, and Richard Brzeczek, at Federal depositions and trials in the Wilson v. Burge civil case, denying knowledge of or participation in torture and abuse;

e. The Defendants' and their co-conspirators, including Burge, Brzeczek, and Kunkle's, manipulation of the U.S. District Court and the U.S. Court of Appeals in the Wilson civil case to obtain a decision absolving co-conspirator Brzeczek and the City of Chicago of liability by withholding evidence of the City's and Brzeczek's knowledge of Wilson's torture by Burge and his men.

f. The 1984 and 1994 sworn testimony of Defendants John Byrne, Dignan, Grunhard, Michael Bosco, Ray Binkowski, McWeeny and their Area 2 confederates at Darrell Cannon's criminal proceedings denying knowledge of, or participation in, the torture and abuse

of Plaintiff Darrell Cannon, and the re-submission of said testimony at Cannon's 1999 motion to suppress hearing;

g. The sworn testimony of other Area 2 confederates denying torture and abuse at numerous additional state Court criminal proceedings.

2. 1984-1993: The Police Board Hearings and Official OPS Statements

a. The sworn testimony of Defendant Burge at the 1992 Police Board Proceedings denying torture and abuse;

b. The sworn testimony of Defendant McWeeny and numerous other law enforcement confederates,, including, but not limited to Area 2 co-conspirators Robert Flood, Dennis McGuire, Thomas McKenna, Fred Hill, and John Yucaitis, Deputy Superintendent McCarthy, and Assistant State's Attorneys Hyman, Ginex, and Nealis, at the 1992 Burge Police Board Proceedings, denying knowledge of, or participation in, torture and abuse;

c. The OPS statements given as official police reports in 1984 and in 1993 by Area 2 detectives and supervisors, including Defendants John Byrne, Peter Dignan, Ray Binkowski, Charles Grunhard, Michael Bosco and Dan McWeeny in Plaintiff's original and re-opened OPS investigations;

d. The OPS statements given as official police reports by Area 2 detectives and supervisors, including John Byrne, Peter Dignan, James Lotito, Robert Dwyer, Daniel McWeeny, and Ronald Boffo, in numerous other OPS investigations, including Lee Holmes (1982); Gregory Banks (1984 and 1992); Stanley Howard (1987 and 1993); Thomas Craft (1993); Philip Adkins (1984 and 1993); and Madison Hobleby (1992).

3. 1992-2005: Federal Court Depositions, Pleadings and Investigations

a. *The answers to complaints denying torture and abuse filed by Defendants Burge, John Byrne, and Dignan and their co-conspirators, including detectives Anthony Maslanka, John Paladino, Michael Kill and Kenneth Boudreau, from 1992 to 1996 in the Banks v. Burge, Wiggins v. Burge and Bates v. Burge Federal civil rights cases;*

b. *The 1996 testimony of Defendant Peter Dignan and Area 2 and 3 co-conspirators Anthony Maslanka, John Paladino, Michael Kill, Kenneth Boudreau and Michael Hoke denying torture and abuse in Federal Court depositions taken in the Federal torture case of Wiggins v. Burge;*

c. *The 1999 testimony concerning their knowledge and involvement in the cover-up of torture and abuse given by Superintendent Terry Hillard, Administrative Assistant Thomas Needham and OPS Director Gayle Shines in Federal Court depositions taken in Santiago v. Marquez;*

d. *The withholding of evidence of a pattern and practice of torture at Area 2 and 3 and its cover-up, including but not limited to in the cases set forth above and below by all the law enforcement officials named herein from several Federal investigations initiated by the U.S. Attorney's Office and the U.S. Justice Department from 1989 to the present.*

4. 1999-Present: Post-Conviction and Habeas Proceedings and Statements to the Media:

a. *The 1999 testimony of Area 2 Violent Crimes Commander Philip Cline and Area 2 detective Robert Dwyer denying knowledge of and/or participation in, torture, abuse and fabrication of evidence in depositions taken in the Madison Hobley State court post conviction proceedings;*

b. The March 1, 2001 testimony of Area 2 Defendant John Byrne at a deposition taken in the Aaron Patterson State Court post conviction proceedings denying knowledge of, or participation in, the torture of Darrell Cannon, Gregory Banks, and numerous other victims;

c. Public statements to the media denying torture made by Byrne and Dignan, respectively, in 1999 and 2001;

d. The destruction of relevant and potentially exculpatory torture evidence, during the year 2000, by a high ranking Chicago Police official who previously worked with Burge at Area 2;

e. Public statements made by Defendants Daley and Devine, including, but not limited to, directly after the Special Prosecutor issued his Report in July of 2006, denying their knowledge of the torture evidence and their actual involvement in the cover-up and refusal to prosecute;

f. The failure by any Defendant or Area 2 detective, supervisor, or other law enforcement or governmental official to come forward in any of the cases which are pending in State or Federal court on post-conviction or habeas petitions brought by victims of the pattern and practice of Area 2 or Area 3 torture and abuse, or in cases where such victims of said abuse still stand wrongfully convicted on the basis of statements coerced from them, and admit that they committed perjury in those cases and that the victim was in fact tortured and abused as a part of the pattern and practice of torture. These victims include Ronald Kitchen, Anthony Holmes, George Powell, Shaded Mumin, James Andrews, Lee Holmes, Thomas Craft, Derrick King, Leonard Hinton, Virgil Robinson, Michael Tillman, Stanley Wrice, Mearon Diggins, Tony Anderson, and Rodney Benson.

5. 2003-Present: Federal Court Proceedings:

a. *The sworn interrogatory answers given on November 25, 2003 by Defendant Jon Burge and on November 26, 2003, by Defendant Daniel McWeeny in the Federal Court case of Hobley v. Burge denying torture and abuse;*

b. *The responses to requests to admit made on November 25, 2003, by Defendant Burge and on November 26, 2003, by Defendant McWeeny in the Federal Court case of Hobley v. Burge denying torture and abuse;*

c. *The November 2003 sworn interrogatory answers of Area 2 co-conspirators Paladino, Lotito, Dwyer, and Garrity denying torture and abuse given in the Federal Court case of Hobley v. Burge;*

d. *The November 2003 responses to requests to admit of Area 2 co-conspirators Paladino, Lotito, Dwyer, and Garrity made in the Federal Court case of Hobley v. Burge denying torture and abuse;*

e. *The answer denying torture and abuse filed in the Federal Court case of Orange v. Burge by Defendant McWeeny in June of 2006;*

f. *The answer denying torture and abuse filed in Federal Court in Cannon v. Burge by Defendant McWeeny in June of 2006;*

g. *The June 22, 2006 sworn interrogatory answers given by Defendant McWeeny in Cannon v. Burge denying any and all torture and abuse;*

h. *The June 22, 2006 sworn interrogatory answers given by Defendant McWeeny in the Federal Court case of Orange v. Burge denying any and all torture and abuse;*

i. *The answer denying torture and abuse filed in Federal Court in the case of*

Patterson v. Burge by Defendant McWeeny on April 25, 2006;

j. *The answer denying torture and abuse filed in Federal Court in the case of Hobley v. Burge* by Defendant McWeeny on August 21, 2006;

k. *The February 17, 2005 sworn interrogatory answers given by Defendant Leroy Martin in the Federal Court case of Patterson v. Burge;*

l. *The November 21, 2006 sworn deposition answers given in Cannon v. Burge by Defendant McWeeny denying knowledge of, or participation in, any acts of torture;*

m. *The November 17, 2006 sworn interrogatory answers given in Cannon v. Burge by Defendant Michael Bosco denying knowledge of, or participation in, any acts of torture;*

n. *The June 5, 2006 sworn interrogatory answers given by Defendant Leroy Martin in Cannon v. Burge denying any knowledge of torture and abuse at Area 2;*

o. *The sworn answers denying knowledge of torture and abuse given in his August 17, 2006 and October 18, 2006 depositions by co-conspirator ASA Dennis Dernbach in the Federal Court case of Orange v. Burge;*

p. *The sworn answers given in his September 25, 2006 deposition by Defendant Leroy Martin in the Federal Court case of Orange v. Burge denying knowledge of torture at Area 2;*

q. *The sworn answers, given in his September 27, 2006 and November 14, 2006 depositions by Defendant Richard Devine in the Federal Court case of Orange v. Burge, inter alia, concerning his and Defendant Daley's knowledge of the Brzeczek evidence and their knowledge of torture and abuse by Jon Burge and others at Area 2;*

r. *The sworn answers given at his July 27, 2006 deposition by Area 2 Sergeant and co-conspirator Alvin Palmer in the Federal Court case of Orange v. Burge denying knowledge of Area 2 torture;*

s. *The sworn answers given at his October 27, 2005 deposition by Area 2 Commander and co-conspirator Hubert Holton in the Federal Court case of Orange v. Burge, denying knowledge of Area 2 torture;*

t. *The deposition testimony given in June and July of 2006 in the Federal court case of Evans v. City of Chicago by Area 2 detectives and co-conspirators Hill, Anthony Katalinic, Joseph DiGiacomo, John Ryan, McKenna and Daniel Zwick denying knowledge of, or participation in, torture at Area 2;*

u. *The sworn testimony given by Area 2 detective and co-conspirator David Dioguardi at his Federal Court deposition of October 25, 2006 in the case of Orange v. Burge, denying, inter alia, witnessing, participating in, or having knowledge of, the torture and abuse of suspects at Area 2, including, Andrew Wilson, Leroy Orange, Leonard Kidd, Stanley Howard, Lee Holmes, Stanley Wrice, and Rodney Benson by Defendants Burge, Byrne, Dignan, and other Area 2 detectives and supervisors;*

v. *The sworn testimony given by Area 2 detective and co-conspirator Leonard Bajenski at his Federal Court deposition of November 7, 2006 in the case of Orange v. Burge, denying, inter alia, witnessing, participating in, or having knowledge of, the torture and abuse of suspects at Area 2, including, Andrew Wilson, Leroy Orange, Leonard Kidd, Gregory Banks, David Bates, and Leonard Hinton by Defendants Burge, Byrne, Dignan, and other Area 2 conspirators.*

w. *The sworn testimony given by Area 2 detective and co-conspirator Dennis McGuire at his Federal Court deposition on November 16, 2006 in the case of Orange v. Burge, denying, inter alia, witnessing, participating in, or having knowledge of, the torture and abuse of suspects at Area 2, including, Andrew Wilson, Leroy Orange, Leonard Kidd, and Melvin Jones;*

x. *The answers denying knowledge of, or participation in, the torture and abuse of Leroy Orange and Leonard Kidd, filed in Federal Court in the case of Orange v. Burge by co-conspirators Flood, McGuire, Bajenski, and Dioguardi on November 9, 2006;*

y. *The answer denying, inter alia, knowledge of, or participation in, the torture and abuse of Madison Hobley, filed in Federal Court in the case of Hobley v. Burge by Patrick Garrity on August 21, 2006;*

z. *The answers denying knowledge of, or participation in, inter alia, the torture and abuse of Madison Hobley, filed in Federal Court in the case Hobley v. Burge by Area 2 detectives Paladino, Robert Dwyer, and Lotito on September 13, 2006;*

aa. *The December 7, 2006 sworn interrogatory answers given by Defendant Binkowski in Cannon v. Burge denying any and all knowledge of, or participation in, torture and abuse;*

bb. *The November 27, 2006 sworn interrogatory answers given by Defendant Madigan in Cannon v. Burge denying any and all knowledge of, or participation in, torture and abuse;*

cc. *The December 8, 2006 sworn interrogatory answers given by Defendant John Byrne in Cannon v. Burge denying any and all knowledge of, or participation in, torture and abuse;*

dd. *The December 18, 2006 sworn interrogatory answers given by Defendant Dignan in Cannon v. Burge denying any and all knowledge of, or participation in, torture and abuse;*

ee. *The December 1, 2006 sworn deposition answers given in Cannon v. Burge by Defendant Bosco denying knowledge of, or participation in, any acts of torture;*

ff. *The December 4, 2006 sworn deposition answers given in Cannon v. Burge by Defendant Madigan denying knowledge of, or participation in, any acts of torture;*

gg. *The December 14, 2006 sworn deposition answers given in Cannon v. Burge by Defendant Binkowski denying knowledge of, or participation in, any acts of torture;*

hh. *The December 15, 2006 sworn deposition answers given in Cannon v. Burge by Defendant John Byrne denying knowledge of, or participation in, any acts of torture including, but not limited to, Plaintiff Darrell Cannon and Gregory Banks;*

ii. *The December 29, 2006 sworn deposition answers given in Cannon v. Burge by Defendant Dignan denying knowledge of, or participation in, any acts of torture including, but not limited to, Plaintiff Darrell Cannon and Gregory Banks;*

jj. *The wholesale invocation of the Fifth Amendment in 2004, 2005, and 2006 in Federal Court depositions and interrogatory answers by Burge, John Byrne, Peter Dignan and more than 25 other Area 2 co-conspirators;*

kkk. The wholesale manipulation of the discovery, negotiation and settlement process and the invocation and later repudiation of the Fifth Amendment in the civil torture cases from 2004 to the present by Defendant Daley and his co-conspirators, including, but not limited to, his political associates and advisors, the Corporation Counsel of the City of Chicago, and the specially appointed and paid for private lawyers representing the City and the police Defendants.

6. 2004-2006: State Court Special Prosecutor Proceedings

a. The answers concerning the 2/25/82 Brzeczek letter and related evidence given by Defendant Daley in his February 2, 2006 statement to the Special Prosecutor;

b. The answers concerning the Brzeczek letter and evidence given by Defendant Daley in his June 12, 2006 sworn statement to the Special Prosecutor, including those that were at variance with answers that he previously gave in an unsworn February 2, 2006 statement to the Special Prosecutor, particularly one answer given on the subject of his knowledge of the Brzeczek letter. This answer was given after his lawyer interrupted the answer Daley was originally giving, and suggested a different answer which he then parroted;

c. Defendant Daley's discussion of the substance of his sworn statement with Defendant Devine after Daley gave his June 12, 2006 statement and before Devine gave his sworn statement on June 15, 2006, particularly his "defense" to the allegation that he refused to prosecute Burge for the torture of Andrew Wilson;

d. The answers given by State's Attorney Richard Devine to the Special Prosecutor in his June 15, 2006 sworn statement and in his previous unsworn statement, inter alia, concerning his and State's Attorney Daley's knowledge of the Brzeczek evidence, and his

parroting of the testimony that Daley previously gave, inter alia, in defense of his refusal to prosecute Burge;

e. The answers given in his April 19, 2006 sworn statement by Defendant Leroy Martin to the Special Prosecutor concerning his knowledge of torture and abuse;

f. The answers given in his June 2, 2004 sworn statement by co-conspirator Dennis Dernbach to the Special Prosecutor concerning his knowledge of torture and abuse;

g. The answers given in her January 16, 2006 statement by Defendant Mayor Jane Byrne to the Special Prosecutor;

h. The testimony of Defendant McWeeny, co-conspirator Patrick Garrity, and two other Area 2 detectives denying torture and abuse given before the Special Prosecutor's Special Grand Jury in October and November of 2005;

i. Two statements denying torture and abuse which were given to the Special Prosecutor by Defendant John Byrne in August of 2004, and his contemporaneous attempt to further manipulate the Special Prosecutors by offering to give an unsworn, court-reported statement denying torture and abuse the day after he appeared before the Special Grand Jury and took the Fifth Amendment, all with the knowledge and intent of covering for his co-Defendants and co-conspirators while avoiding prosecution for perjury;

j. The wholesale invocation of the Fifth Amendment before the Special Prosecutor's Grand Jury in 2004 by Defendants Burge, John Byrne, and more than 25 other Area 2 co-conspirators.

7. 1982 -2004: Intimidation of and interference with Witnesses and Lawyers

a. Defendant Jon Burge's 1982 physical threat - - - pointing a gun at the back of his head in front of other Area 2 detectives - - - of Area 2 detective and whistleblower Frank Lavery who was a State and Federal Court witness exposing the illegal Area 2 police practice of suppressing exculpatory evidence;

b. Defendant Burge's 1983 attempt to intimidate African-American detectives who reported to then Area 2 Commander Leroy Martin his discriminatory exclusion of African-American detectives from homicide investigations;

c. Defendant Burge's and several of his co-conspirators' 1989 attempt to identify and to intimidate a potential whistleblower witness who had anonymously revealed the existence and members of Burge's torture ring to Wilson's lawyers in the pending Federal Wilson civil rights case;

d. Defendant Burge's 1990 threat against lawyers from the Peoples Law Office who were then representing Andrew Wilson in his Federal civil rights litigation, that he would "blow them away with a shotgun" if he was fired by the Chicago Police Department;

e. Defendant, and now disbarred lawyer, John Byrne's 1995 representation of Gregory Banks, a man he previously tortured, on a felony criminal case, and his subsequent attempt, in August of 2004, to reveal allegedly unfavorable attorney-client information learned during that blatantly conflicted representation to the Special Prosecutor in order to avoid his own prosecution;

f. Defendant McWeeny's September 2004 intimidation of torture victim and witness David Bates at his home;

g. Robert Dwyer's post April 2002 intimidation of his sister, Eileen Pryweller, who was a witness to admissions of torture made by Burge and Dwyer;

h. The attempted intimidation of African-American Area 2 detective Doris Byrd by co-conspirator Peter Dignan through a Captain of police.

8. 1982-Present: Refusal to Investigate or Prosecute for Torture and Related Crimes

a. State's Attorney Daley, First Assistant Devine, First Deputy William Kunkle and their ASA subordinates' refusal to investigate or prosecute Burge and his men in 1982 after being informed by Superintendent Brzeczek of evidence that Andrew Wilson was tortured and abused;

b. Defendant SA Daley, Defendant First Assistant Devine, and their co-conspirators' failure to investigate or prosecute Defendants Burge, Byrne, Dignan, or any of their co-conspirators for the torture of more than three score men, including Plaintiff Cannon, who were tortured and abused by Defendant Burge and his men from after Andrew Wilson was tortured in 1982 until Daley left the State's Attorneys' Office in 1989;

c. Superintendent Brzeczek and his subordinates' refusal to investigate or discipline Burge and his men for torturing Wilson;

d. Mayor Richard M. Daley, Superintendent Leroy Martin, the Cook County State's Attorney's Office and their subordinates' refusal to investigate or seek indictments against Burge and his men in 1991 and 1992 after the OPS findings of systematic Area 2 abuse and torture were submitted to them;

e. Superintendent Terry Hillard's refusal to investigate or seek charges in 1998

and 1999 after he was informed that OPS Director Gayle Shines had suppressed findings of torture and abuse and that there were scores of additional torture cases that had never been investigated;

f. State's Attorney Devine's refusal to investigate, prosecute, or recuse himself for conflict of interest, from 1996 to 2002, despite the overwhelming evidence that there was a pattern of torture and abuse at Area 2 and Area 3 that was presented to him and his SAO subordinates;

131. Plaintiff *has now spent twenty-three years in prison for a crime he did not commit. This time has been emotionally, physically, and psychologically grueling and Plaintiff has suffered from constant fear and anxiety, deep depression, despair, rage, boredom and loneliness. Plaintiff has also suffered from the loss of sustained contact with his children. He continues to live under the effect of his isolation, incarceration, and depression. Additionally, Plaintiff suffered and continues to suffer, egregious pain and suffering, humiliation, constant fear, anxiety, deep depression, despair, rage, and post traumatic stress disorder from his torture and abuse.*

132) Prior to Plaintiff's arrest, he was employed as a janitor and building manager. While wrongfully incarcerated the past 23 years, he has been prevented from holding gainful employment or pursuing educational opportunities outside the prison walls; additionally, because he was compelled to serve the last portion of his wrongful conviction and incarceration in a maxi-maxi prison, he has also been prevented from receiving education classes and from working at a prison job. Additionally, the Defendants' and their co-conspirators' continuing wrongful actions, as set forth above, have caused him to have his parole on an earlier conviction

revoked, causing him to be wrongfully imprisoned to the present, and thereby further depriving him of the right and the ability to obtain employment. Additionally, the Defendants' wrongful charging and prosecution caused him to incur attorneys' fees in order to defend himself on these wrongful charges.

133. Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, Devine, Shines, Hillard, and Needham*, acting jointly and with *the named co-conspirators and* other police and prosecutorial investigative, supervisory, and command personnel, together and under color of law, reached an understanding, engaged, *and continue to engage*, in a course of conduct, in a joint action and otherwise conspired *and continue to conspire* among and between themselves to deprive Plaintiff of his constitutional rights, and did deprive and continue to deprive Plaintiff of said rights, including his rights to be free from unreasonable arrest and seizure, wrongful confinement and imprisonment, from involuntary incrimination, from interrogation techniques which “shock the conscience,” his rights to access to the courts and a fair and impartial trial, as protected by the First, Fourth, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution. Because said actions were done *and continue to be done* with the knowledge and purpose of depriving Plaintiff, who is African-American, of the equal protection of the laws and/or of equal privilege and immunities under the law, and with racial animus toward the Plaintiff, they also deprived Plaintiff of his right to equal protection of the laws under the Fourteenth Amendment, and 42 U.S.C. §§ 1983 and 1985.

134. In furtherance of this conspiracy or conspiracies, Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, Devine,*

Shines, Hillard, and Needham, together with their *named and unnamed* co-conspirators, each committed one or more of overt acts set forth above, including, but not limited to, the wrongful arrest, imprisonment, charging and prosecution of Plaintiff and other torture victims; the fabrication and coercion of false and totally unreliable inculpatory evidence from Plaintiff; the failure to stop the coercive interrogations of Plaintiff despite having knowledge that they were being tortured and abused; the unconstitutional torture and coercion of Plaintiff and other torture victims in order to compel them to make false inculpatory statements against themselves and/or others; the coercion of a false statement from Tyrone McChristian; the repeated deception of prosecuting attorneys and judges, by, *inter alia*, making knowing misstatements and the presentation of this knowingly false and incomplete evidence to prosecutors and judges; the giving of false testimony *and statements* and the filing of false and incomplete statements and reports; the suppression *and destruction* of favorable, exculpatory *documentary, testimonial, and physical* evidence; the failure to come forward with a truthful account of the events; *the repeated obstruction of state and federal court proceedings*, the refusal to investigate *or prosecute* and the subversion and quashing of good faith investigations and findings; the abuse of public office *and misuse of public funds*; the exploitation of blatant conflicts of interest *and the use of improper political influence, inter alia, with the Special Prosecutor*, to further cover-up the acts of torture and abuse; and the other acts set forth above and *below*.

135) *Defendants Daley, Devine, Byrne and their co-conspirators suppressed and concealed their roles in this conspiracy, as set forth above, until they and certain of their co-conspirators secretly revealed portions of those roles to the Special Prosecutor in Statements given in 2006 and first released in late July and early August 2006 pursuant to Plaintiff's*

subpoenas and order of Court, and continue to suppress the true nature and extent of their involvement and knowledge to the present.

136. Said conspiracy or conspiracies, joint actions and overt acts continue to this date, have *directly caused and continue to cause* Plaintiff's constitutional rights to be violated and the injuries, pain, suffering, fear, mental anguish, detention, imprisonment, humiliation, defamation of character and reputation, and loss of freedom and companionship, as set forth more fully above and below.

137) That this conspiracy is ongoing to the present is further evidenced by all of the acts alleged above; additionally, the practice of coercion and physical abuse continues to the present as well, as demonstrated by numerous such acts supervised by, participated in or covered-up by the Area 2 and 3 Defendants, their co-conspirators, commanding officers, supervisors and protégés throughout the Chicago Police Department from the date Defendant Burge was removed from duty to the present.

138) The ongoing conspiracy and continuing overt acts in furtherance, by these Defendants and all their co-conspirators, has directly and proximately caused Plaintiff further and continuing injury, and violation of his Constitutional Rights, including, but not limited to, wrongful revocation of Plaintiff's parole and continued wrongful imprisonment; these continuing injuries and violations were directly and proximately caused by the Defendants' and their co-conspirators' continuing attempts to discredit Plaintiff, his truthful claims of torture and innocence, and to further unconstitutionally punish Plaintiff for the crime for which he was previously wrongfully convicted.

COUNT I

(42 U.S.C. 1983 Claim for Deprivation of Right to Fair Trial and for Wrongful Conviction)

139. Plaintiff re-alleges paragraphs 1 through 138.

140. Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, and Devine*, individually, jointly, and in conspiracy, caused the wrongful charging, prosecution, conviction, and *imprisonment* of Plaintiff. Additionally, these same Defendants, together with Defendants Shines, Hillard, and Needham, individually, jointly, and in conspiracy, caused the continuation of that wrongful conviction.

141. *These Defendants caused and continued Plaintiff's wrongful charging, prosecution, conviction and imprisonment by committing or causing to be committed one or more of the following acts: coercing, constructing and/or fabricating the false and totally unreliable statements which formed the basis for Plaintiff's charging, prosecution and conviction; by withholding from the prosecutors, judges and defense attorneys involved in Plaintiff's prosecution the fact that these admissions were false, totally unreliable, constructed and coerced; by suppressing, destroying and preventing the discovery and development of additional exculpatory torture findings and evidence, as well as other exculpatory evidence; by giving a false and incomplete version of events to prosecutors; by writing false reports and giving false testimony; by improperly influencing the judges hearing Plaintiff's case, inter alia, by making false public statements; by obstructing and improperly influencing investigations which would have led to discovery of further exculpatory evidence; by continuing Plaintiff's wrongful imprisonment after he was exonerated; and by the additional wrongdoing set forth*

above, thereby unconstitutionally depriving Plaintiff of his liberty and violating his right to a fair and impartial trial and not to be wrongfully convicted, as guaranteed by the Fourteenth Amendment to the U.S. Constitution.

142) Additionally and/or alternatively, the Defendants named above failed to intervene to stop Plaintiff's wrongful prosecution and conviction and resultant imprisonment despite having the opportunity and duty to do so.

143. The actions of Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, Devine, Shines, Hillard, and Needham* in depriving Plaintiff of his right to a fair trial and not to be wrongfully convicted and imprisoned, *and, additionally and/or alternatively, in failing to intervene to stop said violations,* were the direct and proximate cause of the injuries to Plaintiff which are set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Estate of Grunhard, Martin, Devine, Shines, Hillard, and Needham,* for substantial compensatory damages, and, because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for substantial punitive damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems equitable and just.

COUNT II
(42 U.S.C. § 1983 Claim for False Arrest and Imprisonment)

144. Plaintiff re-alleges paragraphs 1 through 143.

145. The actions of Defendants *Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, and Grunhard,* individually, jointly, and in conspiracy, in falsely arresting and

imprisoning Plaintiff, and of these same Defendants, together with Defendants Daley, *Jane Byrne*, Martin, Devine, Shines, Hillard, and Needham, individually, jointly, and in conspiracy, in continuing said imprisonment for *twenty-three years*, without probable cause, violated Plaintiff's Fourth and Fourteenth Amendment rights to be free from unreasonable seizures and deprived plaintiff of liberty without due process of law.

146) *Additionally Defendants Daley, Devine, Jane Byrne, Martin, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, and Grunhard failed to prevent Plaintiff's wrongful arrest and resultant imprisonment despite having the opportunity and duty to do so.*

147. The actions of the Defendants in falsely imprisoning Plaintiff, continuing said false imprisonment, covering up their own misconduct, *and/or failing to prevent said unlawful arrest and imprisonment*, were the direct and proximate cause of Plaintiff's injuries and damages as more fully set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, Devine, Shines, Hillard, and Needham*, for substantial compensatory damages, and, because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for substantial punitive damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems equitable and just.

COUNT III
(42 U.S.C. § 1983 Claim for Torture and Physical Abuse)

148. Plaintiff re-alleges paragraphs 1 through 147.

149. The actions of Defendants Burge, *John Byrne, Dignan, Binkowski, McWeeny,*

Bosco, and Grunhard in torturing and physically abusing Plaintiff and threatening him with additional torture and physical abuse, individually, jointly and in conspiracy violated his Fourth and Fourteenth Amendment rights to be free from unreasonable seizures.

150. Defendants Burge, *John Byrne*, Dignan, Grunhard, Binkowski, McWeeny, *Madigan*, Bosco, and Martin were aware of the torture and physical abuse of the Plaintiff, and participated in it by allowing the torture and abuse to continue while having the obligation and duty to stop it, and by failing to report the abuse to superiors in the Police Department and the State's Attorney's Office.

151) *Additionally, Defendants Daley, Devine, Martin, Jane Byrne, and the other named Defendants and co-conspirators failed to intervene to stop Defendant Burge and his Area 2 co-conspirators from continuing their coercive interrogations and torture tactics, inter alia, by prosecuting and otherwise disciplining them when they first learned of their criminal conduct in 1982, despite having the opportunity and duty to do so.*

152. The actions of the Defendants, individually, jointly and in conspiracy, in torturing and physically abusing the Plaintiff, threatening to inflict further torture and physical abuse, and/or failing to stop *or prevent* the torture and abuse while having the opportunity and duty to do so, were the direct and proximate cause of Plaintiff's injuries and damages as more fully set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Madigan, Grunhard, Martin, and Devine* for compensatory damages, and, because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for punitive

damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems equitable and just.

COUNT IV
(42 U.S.C. § 1983 Claim for Coercive Interrogation)

153. Plaintiff re-alleges paragraphs 1 through 152.

154. The actions of Defendants Burge, *John* Byrne, Dignan, Binkowski, McWeeny, Bosco, and Grunhard, individually, jointly, and in conspiracy, in coercively interrogating Plaintiff, and in using torture techniques which “shock the conscience” during said interrogations, resulted in false, coerced, and fabricated admissions, and violated Plaintiff’s Fifth and Fourteenth Amendment rights to be free from compulsory self-incrimination and deprivation of liberty without due process of law.

155. The actions of the Defendants in using torture and other coercive techniques to interrogate Plaintiff, and/or condoning and permitting the use of said techniques, were the direct and proximate cause of Plaintiff’s injuries and damages as more fully set forth above.

156) Additionally, the failure of Defendants Daley, Devine, Martin, Jane Byrne, and their co-Defendants and co-conspirators to intervene to stop Defendant Burge and his Area 2 co-conspirators from continuing their coercive interrogations and torture tactics, inter alia, by prosecuting and otherwise disciplining them when they first learned of their criminal conduct in 1982, despite having the opportunity and duty to do so, proximately caused Plaintiff’s coercive interrogation by torture and his resultant injuries and damages as more fully set forth above.

WHEREFORE, Plaintiff demands judgment against Defendants *Daley, Byrne, Devine, Martin*, Burge, *John* Byrne, Dignan, Binkowski, McWeeny, Bosco, and Grunhard, for

substantial compensatory damages, and, because these Defendants acted maliciously, willfully, wantonly, and/or with reckless disregard for Plaintiff's constitutional rights, for substantial punitive damages, plus the costs of this action, attorneys' fees and such other relief as this Court deems equitable and just.

COUNT V
(Racketeer Influenced and Corrupt Organizations (RICO) Act Claim)

157) Plaintiff re-alleges paragraphs 1-156.

158) Defendants Daley, Devine, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Grunhard, Martin, Hillard, Shines and Needham, individually, jointly, and in conspiracy, with their named and unnamed co-conspirators, within the meaning of 18 U.S.C. § 1961 et. seq., were, at all times material to this complaint, employed by the City of Chicago and its Police Department and/or Cook County and its State's Attorneys' Office which are enterprises which participate in and effect interstate commerce.

159) As is set forth more fully above, from 1973 to the present, these Defendants and their co-conspirators conspired to conduct and/or to participate directly in the conduct of the affairs of the City of Chicago, its Police Department, and/or the Cook County State's Attorneys Office through a pattern of racketeering activity which includes the systemic torture and abuse of more than 100 African-American suspects, including Plaintiff, in order to obtain and use their confessions and other inculpatory evidence against them in wrongful prosecutions without regard to their guilt or innocence; the wholesale obstruction of State and Federal Courts by use of this tortured and coerced evidence, as well as wholesale perjury, in order to obtain, continue, and maintain the charging, conviction and imprisonment of the tortured and abused suspects,

including Plaintiff, without regard to their guilt or innocence; the wholesale obstruction of State and Federal Courts and investigations by suppressing and destroying exculpatory evidence of torture, abuse and cover-up from the Plaintiff and numerous other criminal defendants who were victims of torture and abuse; and the wholesale obstruction of State and Federal courts and Federal and State prosecutors to cover-up the torture, perjury, and fraudulently obtained convictions and imprisonment of Plaintiff and numerous other victims, and to prevent the victims of this torture and wrongful prosecution from discovering and developing exculpatory evidence of a pattern and practice of torture.

160) The numerous illegal predicate acts which constitute the pattern of racketeering activity, and which were agreed to, and committed by, the Defendants and their co-conspirators, are set forth more specifically in the Facts above, including, but not limited to, paragraph 130, and were and are violations of the criminal laws of the United States and the State of Illinois, including obstruction of justice under 18 U.S.C. § § 1503, 1510, 1511, 1512 and 1513; perjury under 18 U.S.C. § 1621, and conspiracy to commit these acts under Federal and state law.

161) The Defendants obtained, as a direct result of their racketeering activity, both directly and indirectly, income from continued employment, and, upon retirement or firing, pensions, despite committing indictable offenses; monetary raises resulting from promotions, commendations, and heightened performance evaluations obtained due to the false and fraudulent convictions which they obtained; millions of dollars in free legal services taken from public funds; and substantial compensation from being elected to, and continuing in, high political office both as a result of, and despite their, racketeering activity.

162) *The Defendants' racketeering activity proximately caused and continues to proximately cause Plaintiff to suffer injury to his business and property as more fully set forth above.*

WHEREFORE, Plaintiff demands judgment against Defendants Daley, Devine, Jane Byrne, Burge, John Byrne, McWeeny, Madigan, Binkowski, the Estate of Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham, for substantial and treble compensatory damages.

COUNT VI
(42 U.S.C. § 1983 Monell Policy Claim Against City of Chicago)

163. Plaintiff re-alleges paragraphs 1 through 162.

164. The actions of Defendants *Daley, Jane Byrne, Burge, John Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski, Madigan, Martin, Devine, Shines, Hillard, and Needham*, as alleged above, were done pursuant to one or more interrelated *de facto* policies, practices and/or customs of the Defendant City of Chicago, its Police Department, its OPS and Internal Affairs Division (IAD), its Personnel Division, and/or its Superintendents, as well as its Police Board, the Mayor, his Office, *and his City Council*, and the Corporation Counsel and her Office.

165. At all times material to this complaint, Defendant City of Chicago and its Police Department, *Superintendents, OPS, IAD, Personnel Division, and/or Detective Division, as well as the Mayor, his Office and his City Council*, the Corporation Counsel and her Office, and/or the Police Board had interrelated *de facto* policies, practices, and customs which included, *inter alia*:

- a) conducting physically, psychologically or otherwise illegally or improperly coercive interrogations of witnesses, suspects and arrestees in order to obtain

confessions and wrongful convictions, particularly the use of torture techniques under the command and supervision of Defendant Burge at Area 2, and later at Area 3;

- b) the filing of false reports, and giving false statements and testimony about said interrogations and confessions and fabricating or constructing parts or all of said confessions, suppressing evidence concerning said interrogations and confessions, pursuing and obtaining wrongful prosecutions and false imprisonments on the basis of confessions obtained during said interrogations, denying suspects their right to full and fair access to the courts, and otherwise covering up the true nature of said interrogations and confessions particularly in circumstances where torture techniques were used by Area 2 and Area 3 detectives under the command and supervision, and with the active participation of, Defendant Burge;
- c) the failure to videotape the interrogation or questioning of suspects, arrestees, and witnesses, particularly in the circumstances set forth in a-b above;
- d) the failure to properly train, supervise, discipline, transfer, monitor, counsel and/or otherwise control police officers, particularly those who are repeatedly accused of torture and related abuse of suspects; of false arrests, wrongful imprisonments, malicious prosecutions and wrongful convictions; of making false reports and statements; and/or of physically, psychologically or otherwise illegally or improperly coercive questioning or interrogation of witnesses, suspects and arrestees, particularly persons who were tortured and or physically and/or psychologically abused during questioning. This failure to properly train, supervise,

discipline, transfer, monitor, counsel and/or otherwise control includes the “repeater” Defendants Burge, Burge, Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski, Madigan, and all the other Area 2 and 3 detectives who were repeatedly accused of torturing and physically abusing suspects at Area 2 and Area 3;

- e) the police code of silence, specifically in cases where officers engaged in the violations articulated in paragraphs a-d above (i.e., police torture and other unconstitutional and coercive interrogations at Area 2 and Area 3 under the command and supervision of Defendant Burge) whereby police officers refused to report or otherwise covered-up instances of police misconduct, and/or fabricated suppressed and destroyed evidence of which they were aware, despite their obligation under the law and police regulations to report. Said code of silence also includes police officers either remaining silent or giving false and misleading information during official investigations in order to protect themselves or fellow officers from internal discipline, civil liability, or criminal charges, and perjuring themselves in criminal cases where they and their fellow officers have tortured or otherwise coercively or otherwise unconstitutionally interrogated a suspect, arrestee or witness, or falsely arrested, imprisoned and prosecuted a criminal defendant, particularly in cases where torture techniques under the command and supervision of Defendant Burge at Area 2, and later at Area 3, have been employed; and

- f) covering up and suppressing evidence and findings, refusing to properly investigate, arrest and charge, continuing to finance Defendant Burge's defense and otherwise attempting to both publicly and judicially defend his actions long after repeatedly acknowledging that he had committed repeated acts of torture, and otherwise obstructing justice in police torture cases, particularly those that arose at Area 2 and Area 3 under the supervision, and with the participation of, Defendant Burge.

166. The pattern and practice of torture and abuse at Area 2, the cover-up of that abuse and the wrongful prosecutions and convictions which resulted therefrom, were well known within Area 2 both well before and after Plaintiff was tortured and wrongfully convicted, including by the command officers at Area 2, which included Defendants Burge and Martin, and Burge's successor, Phil Cline, as well as to *Defendant Mayors Byrne and Daley and their Chiefs of Staff, including Sheila O'Grady*, the successive Police Superintendents, including Richard Brzeczek, Fred Rice, Defendant Martin, Rodriguez, Defendant Hillard, and Phil Cline, to the successive Directors of OPS, including Defendant Shines, *various Command Personnel, including Deputy Superintendents McCarthy, Lyons, Hoke and Townsend*, the Chiefs of Detectives, including *William Hanhardt* and Defendant Hillard, and to other policy making, command, and supervisory City and police personnel, who participated in the cover-up and suppression of evidence, the wrongful prosecution and conviction of the Plaintiff and other torture victims, and the denial of their full and fair access to the courts *inter alia*, in the manner set forth in this complaint.

167. Said interrelated policies, practices and customs, as set forth above, both individually and together, were maintained and implemented with deliberate indifference; encouraged, *inter alia*, the coercing of statements from suspects, witnesses and arrestees, by torture and related abusive tactics and techniques, the construction and fabrication of confessions and other evidence, the suppression *and destruction* of evidence of torture and other exculpatory evidence, the intimidation of witnesses, the making of false statements and reports, the giving of false testimony, the obstruction of justice, the manipulation of the state and Federal courts, and the pursuit and continuation of wrongful convictions and false arrests and imprisonments; and were, separately and together, a direct and proximate cause of the unconstitutional acts and perjury committed by the named Defendants and their co-conspirators, and the injuries suffered by the Plaintiff.

168. Additionally, the City of Chicago's said failure to properly train, discipline, monitor, control, assign, transfer, supervise, and counsel Defendants Burge, Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski, Madigan, Martin, Devine, Shines, Hillard, and Needham was also done with deliberate indifference and likewise acted as a direct and proximate cause of the injuries to Plaintiff.

169. Additionally, and/or alternatively, the involvement in, and ratification of, the unconstitutional actions set forth above by Chicago *governmental* and police policymakers, including, but not limited to, *Defendant Mayors* Richard M. Daley and *Jane Byrne, successive Police Superintendents Brzeczek, Rice, Martin, Hillard, Cline* and their direct subordinates, including, but not limited to, Defendants Shines, and Needham, establish that said constitutional

violations were directly and proximately caused by the City of Chicago and its Police Department.

WHEREFORE, Plaintiff demands judgment against Defendant City of Chicago for substantial compensatory damages, plus costs and attorneys' fees and whatever additional relief this Court finds equitable and just.

COUNT VII
(State Law Claim for False Arrest and Imprisonment)

170. Plaintiff re-alleges paragraphs 1 through 169.

171. The arrest and imprisonment of Plaintiff, without probable cause, individually, jointly, and in conspiracy by Defendants Burge, Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski, Madigan, and Martin, and its continuation by these Defendants, together with Defendants Devine, Shines, Hillard, and Needham, individually, jointly, and in conspiracy, constituted the torts of false arrest and imprisonment under Illinois law.

172. Defendants' actions in arresting and imprisoning Plaintiff were willful and wanton.

WHEREFORE, Plaintiff demands compensatory damages against Defendants Burge, Byrne, Dignan, Grunhard, McWeeny, Bosco, Binkowski, Madigan, Martin, Devine, Shines, Hillard, and Needham and, because these Defendants acted in a malicious, willful and/or wanton manner toward Plaintiff, punitive damages, and such other and additional relief as this Court deems just and equitable.

COUNT VIII
(State Law Claim for Malicious Prosecution)

173. Plaintiff re-alleges paragraphs 1 through 172.

174. Defendants *Daley, Devine, Jane Byrne, Burge, John Byrne, Dignan, Binkowski, McWeeny, Bosco, Grunhard, Madigan, and Martin*, individually, jointly, and in conspiracy, initiated a malicious prosecution without probable cause against Plaintiff, and these same Defendants, together with Defendants *Shines, Hillard, and Needham*, individually, jointly, and in conspiracy, continued said prosecution, again without probable cause. Said prosecution was ultimately terminated in Plaintiff's favor. The Defendants' actions were done in a willful and wanton manner, and directly and proximately caused the injury and damage to Plaintiff set forth above.

WHEREFORE, Plaintiff demands actual or compensatory damages against Defendants *Daley, Devine, Jane Byrne, Burge, John Byrne, McWeeny, Madigan, Binkowski, the Estate of Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham*, and, because these Defendants acted in a malicious, willful and/or wanton manner toward Plaintiff, punitive damages, and such other and additional relief as this Court deems equitable and just.

COUNT IX
(State Law Claim for Intentional Infliction of Emotional Distress)

175. Plaintiff re-alleges paragraphs 1 through 174.

176. Defendants *Daley, Devine, Jane Byrne, Burge, John Byrne, McWeeny, Madigan, Binkowski, Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham*, individually, jointly, and in conspiracy, by, *inter alia*, torturing a false confession from Plaintiff and/or by failing to *prevent or* stop said torture, by constructing and fabricating the details of said confession, and by procuring his prosecution, conviction, and life sentence for a murder he

did not commit by means of said false confession, engaged in extreme and outrageous conduct. Additionally these same Defendants, together with Defendants *Daley, Byrne, Devine, Hillard, Shines, Martin and Needham*, individually, jointly, and in conspiracy, by fabricating, coercing, and suppressing other evidence, by continuing Plaintiff's false imprisonment after procuring his wrongful conviction, by refusing to investigate, *and by continuing to retaliate and punish Plaintiff even after he was exonerated*, engaged in additional extreme and outrageous conduct.

177. Defendants *Daley, Devine, Jane Byrne, Burge, John Byrne, McWeeny, Madigan, Binkowski, Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham*, intended, by subjecting Plaintiff to such humiliating, degrading conduct, to inflict severe emotional distress on Plaintiff, and knew that their conduct would cause Plaintiff and his family severe emotional distress.

178. As a direct and proximate result of Defendants' outrageous conduct, Plaintiff was injured, and has experienced, and continues to experience, severe emotional distress, including fear of execution, nightmares, sleep disruption, symptoms of post traumatic stress disorder, anxiety, depression, and inability to focus or concentrate.

WHEREFORE, Plaintiff demands judgment against Defendants *Daley, Devine, Jane Byrne, Burge, John Byrne, McWeeny, Madigan, Binkowski, Estate of Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham*, for compensatory damages and, because these Defendants acted in a malicious, willful and/or wanton manner toward Plaintiff, for punitive damages, plus the costs of this action, and such other relief as this Court deems equitable and just.

COUNT X
(State Claim for Conspiracy)

179. Plaintiff re-alleges paragraphs 1 through 178.

180. Defendants *Daley*, Devine, *Jane Byrne*, Burge, *John Byrne*, McWeeny, Madigan, Binkowski, Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham with *the named and* other unsued co-conspirators, including police and prosecutorial investigative, supervisory, and command personnel, together reached an understanding, engaged *and continue to engage* in a course of conduct, and otherwise jointly acted and/or conspired among and between themselves to falsely imprison and/or to continue said imprisonment, to maliciously prosecute and/or continue said prosecution, and to intentionally inflict severe emotional distress on Plaintiff.

181 In furtherance of this conspiracy or conspiracies, the Defendants named above, together with their unsued co-conspirators, committed the overt acts set forth above.

182. Said conspirac(ies) and overt acts were and are continuing in nature.

183. Defendants' and their co-conspirators' overt acts, as set forth above, which were committed jointly and/or while conspiring together to falsely imprison, maliciously prosecute, and intentionally inflict emotional distress on the Plaintiff, constitute the tort of conspiracy as set forth above.

WHEREFORE Plaintiff demands compensatory damages, jointly and severally from Defendants *Daley*, Devine, *Jane Byrne*, Burge, *John Byrne*, McWeeny, Madigan, Binkowski, Estate of Grunhard, Bosco, Martin, Devine, Shines, Hillard, and Needham, and, because these

Defendants acted in a malicious, willful and/or wanton manner toward Plaintiff, for punitive damages, plus the costs of this action and whatever additional relief this Court deems equitable and just.

COUNT XI
(State Law Respondeat Superior Claim)

184. Plaintiff re-alleges paragraphs 1-180.

185. Defendants *Jane Byrne*, Burge, *John Byrne*, McWeeny, Madigan, Binkowski, Grunhard, Bosco, Martin, Shines, Hillard, and Needham were, at all times material to this complaint, employees of the Defendant City of Chicago, were acting within the scope of their employment, and their acts which violated state law are directly chargeable to the Defendant City under state law pursuant to *respondeat superior*.

186) Defendants Daley and Devine, at the times specified in the complaint, were employees of the Defendant City of Chicago, were acting at these times within the scope of their employment as City employees, and those acts which are actionable under state law are directly chargeable to the Defendant City under state law pursuant to respondeat superior.

WHEREFORE, Plaintiff demands judgment against the City of Chicago for any and all compensatory damages awarded on Plaintiff's state law claims, plus the costs of this action and whatever additional relief this Court deems equitable and just.

COUNT XII
(745 ILCS 10/9-102 and Common Law Claims Against the City, County and SAO)

187. Plaintiff re-alleges paragraphs 1 through 186.

188. Defendant City of Chicago was the employer of *Jane Byrne*, Burge, *John Byrne*,

McWeeny, Madigan, Binkowski, Grunhard, Bosco, Martin, Shines, Hillard, and Needham *at all times relevant and material to this complaint.*

189. These Defendants committed the acts alleged above under color of law and in the scope of their employment as employees of the City of Chicago.

190) Additionally, Defendant City of Chicago was the employer of Defendants Daley and Devine at the times so specified in this complaint; these Defendants also committed the acts alleged above under color of law and, during said employment with the City, in the scope of their employment as employees of the City of Chicago.

191. Defendant Cook County and its State's Attorneys' Office was the employer of Defendants *Daley, and Devine* at *other* times relevant and material to this complaint, additionally and/or alternatively, said County is therefore responsible for any judgment entered against Defendants *Daley* and *Devine*, *for acts committed by these Defendants during said employment*, and is therefore a necessary party hereto. Defendants *Daley and Devine* committed the acts alleged above under color of law and, *while so employed*, in the scope of their employment as employees of Cook County and its State's Attorneys' Office.

WHEREFORE, Plaintiff, pursuant to 745 ILCS § 10/9-102, and otherwise pursuant to law, demands judgment against the Defendants City of Chicago, Cook County and its State's Attorneys' Office, in the amounts awarded to Plaintiff against the individual Defendants as damages, attorneys' fees, costs and interest, and for whatever additional relief this Court deems equitable and just.

Dated: February 13, 2007

Respectfully submitted,

/s/ G. Flint Taylor

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Plaintiff demands trial by jury on all counts.