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## The Torture Machine (Book Review)

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**Dennis Cunningham and  
Jeffrey Haas**

**BOOK REVIEW:  
THE TORTURE MACHINE**

*The Torture Machine, Racism and Police Violence in Chicago*, by People's Law Office and longtime National Lawyers Guild attorney Flint Taylor, is a meticulously detailed and authentic, truly appalling story of shame and disgrace to the city of Chicago, its political and police administration establishments, and numerous judges of the Cook County criminal courts; an account of dozens of cases in which black men from the South Side were sent to state prison—and a number to Death Row—on the basis of confessions extracted from them by police torture. For more than a decade, during the 1970s and 1980s, a group of Chicago Police Department (“CPD”) detectives, under the command of Lieutenant Jon Burge, regularly arrested black men as suspects in various serious criminal cases and brought them to Area Two HQ for “questioning,” which consisted of aggravated physical abuse until they would agree to confess under duress. Just about every suspect confessed under these conditions.

Members of the Prosecutor's office, notably including Assistant State's Attorney Larry Hyman, State's Attorney Richard M. Daley, later elected Mayor of Chicago, and Chief Assistant State's Attorney Richard Devine, who later succeeded Daley, took statements put into the “suspects” mouths by the investigating detectives. The Prosecutor's office used the transcribed statements against the “suspects” turned torture victims to obtain convictions and severe sentences.

Cook County judges uniformly denied motions to suppress the confessions despite the clear evidence of coercion and disregarded the striking flow of such similar evidence from cases arising out of Area Two. The same detectives from the Burge group witnessed the alleged admissions of guilt every time. And yet, with one glaring exception, no challenge to their testimonies was ever sustained—regardless of the evidence.

The torture practice finally came to light in the course of a federal civil trial. The case was first filed by Andrew Wilson, *pro se*, under 42 U.S.C. § 1983 seeking damages for the torture he endured while he was interrogated for being a “cop killer.” Wilson was sentenced to death but the Illinois Supreme Court overturned the conviction and held that the confession upon

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Haas and Cunningham are two of the founding partners of the People's Law Office, now celebrating its 50th year, are longtime NLG members, and are beloved comrades of the author.

which the conviction was based was brutally coerced. The court cited evidence including a photograph that showed black burn marks, in parallel lines up and down his stomach and chest, made by a hot radiator to which he had been chained by the Burge group during his interrogation.

Eventually, the case was brought to the People's Law Office in Chicago, a group of lawyers specializing in police misconduct cases and taken up by author Flint Taylor and his PLO comrades, Jeffrey Haas and John Stainthorp. The three soon found they had entered a nightmare, in the courtroom of then-U.S. District Court Judge Brian Duff.

Judge Duff, as Taylor describes in mind-bending detail, made no secret of his hostility to Wilson and his lawyers. Judge Duff extended that hostility to his rulings and showed a determination that Wilson's claims would not succeed. Among the most egregious and consistent ways that Judge Duff railroaded Wilson's claims to two successive juries was to allow Burge's lawyers to present every detail of the police killing, despite repeated objections by Wilson's lawyers, while denying cumulating evidence of prior similar acts of torture and physical abuse by Burge against other criminal suspects.

Perhaps the most significant event that occurred during the first jury trial was when Taylor received an anonymous letter, which appeared to come from a Chicago police officer. The letter warned Taylor that there were other cases of torture at Area Two. Successive communications named one of Burge's torture victims as Melvin Jones. Wilson's lawyers quickly discovered a transcript of Jones making similar charges of electric shock in his own motion to suppress and in the transcript Burge threatened Jones with the same treatment he had given "Satan" and "Cochise." These persons were located and confirmed they were Burge torture victims, which led to the discovery of other victims.

Wilson's lawyers argued to Judge Duff that Federal Rule 404(b) allowed evidence of bad acts in rebuttal during the first jury trial. However, Judge Duff denied the arguments on the grounds that the defendants had not been allowed to take the victims' depositions before the trial. As a result, the first jury was hung, having heard nothing about Wilson's torture allegations, which was supported by the doctors and nurse who first examined him. Instead the jury heard Burge's, several Area Two detective's, the State's Attorney's, and a court reporter's repeated denials that no one touched Wilson at Area Two. These participants in the coerced statement claimed there was a minor scuffle when Wilson was first arrested and he may have been slightly injured by the "wagonmen" transporting him from Area Two after he "confessed".

At first Taylor and his co-counsel thought the hung jury had a silver lining and giving them the opportunity to give the Defendants' notice of

the other torture victims and remove the objection to the torture victims' testimonies. However, at the scheduling conference, Judge Duff declared a second trial would begin the next week. This did not allow enough time to fully develop the testimony of the increasing number of torture victims. Taylor writes that he and his co-counsel went "ballistic."

In an attempt to make the record, if not postpone the trial, Taylor, Haas, and Stainthorp filed a motion to continue the second trial citing all of the new direct evidence from other Burge torture victims that should be admitted into evidence at the second trial. Arguing this motion for continuance and to allow into evidence Burge's prior acts of torture, set the tone and the outcome for the second trial. Duff refused both the continuance and to allow the other torture victims to testify. Taylor, Haas, and Stainthorp did not hide their frustration as the second trial loomed under the shadow of the rank injustice of the first. Contempt citations followed. Duff even threatened he would declare a mistrial (attributable to their conduct) if they continued to pursue their arguments.

Nevertheless they persisted with their objections and offers of proof designed to preserve the record, which were met with denials, reprimands, and further contempt citations by Judge Duff as the trial quickly degenerated into a judicial dogfight. Not surprisingly the second civil trial provided the PLO Lawyers with the first steps to a successful appeal, including a not-guilty verdict for Defendant Burge and the city and a record replete with judicial mistakes and partisanship.

Taylor describes the appeal in dramatic fashion from the morning when PLO lawyers learned they had a very conservative panel of judges assigned to hear the case, to the pinnacle of the argument when Judge Posner confronted Bill Kunkle, Burge's lawyer with Kunkle's rhetorical question to the jury: "What kind of due process was it when Andrew Wilson sentenced those officers to death?" Kunkle chuckled inside with the brilliance of his prejudicial remarks, until Posner leaned over and asked, "You wanted the jury to hate him?" Taylor describes the long pause in which the appeal likely held in the balance. Kunkle finally admitted "I probably did want the jury to hate him." The reversal of the verdict below in Burge's favor followed, and the door was finally reopened to judicial scrutiny of Burge and company's serialized acts of torture.

The result of the Wilson trials and appeals, the publicity, and social activism work that accompanied them, always supported and often initiated by the PLO lawyers, was to make Burge's torture a public issue. This effort included a film for PBS entitled "End of the Nightstick" which chronicled organizing efforts by activists and contained interviews with Burge torture victims, PLO attorneys, and community activists.

Smelling blood, or more accurately torture, Taylor led the invigorated investigation to uncover more victims and expose the complicity of Cook County's top prosecutors, (most notably Richard M. Daley) and ruling city officials (again most notably Mayor Richard M. Daley) in encouraging, condoning, and covering up Burge's actions. This project and quest led the PLO, and Taylor in particular, through numerous cases where wrongful imprisonment resulting from torture by Chicago police was established, new trials were granted, and freedom, denied for decades, was finally won. Through this prolonged struggle, a total of more than 125 alleged Burge torture victims have been identified, and efforts to free those still incarcerated continue. Taylor, fifty years from the establishment of the PLO when he was a student at the Northwestern University Law School, vows he has no plans to stop what he's been doing.

Taylor opens his book with the event that set the fate of the PLO as police misconduct lawyers: The police raid on December 4, 1969. That day, Fred Hampton, chairman of the Illinois chapter of the Black Panther Party, several members of who were already clients of the PLO, was murdered while asleep in his bed. As CPD officers approached the residence, party members were unable to awaken Fred Hampton because, as it was later shown, he had been nefariously drugged at dinner the night before, most likely by a trusted member who secretly worked for the FBI.

The FBI instigated the raid as part of the infamous "COINTELPRO" campaign by which the Bureau sought to "neutralize" the BPP and other dissident groups. They supplied the police raiders with a floor plan of the apartment where Fred and other Panthers stayed, which was obtained from their informant William O'Neal. The floorplan specifically marked the location of Fred's bed.

In the wee hours of December 4, 1969, fourteen Chicago police officers raided the Hampton apartment. After fatally shooting Panther Mark Clark at the front door, the police sent a fusillade of carbine and machine gun fire through a wall directed towards the location where the floor plan showed that Fred's bed was located. Two CPD officers entered the bedroom. One inquired "Is he dead yet?" After two pistol rounds were fired into Fred's head from about two feet away, one of the raid's survivors heard a police voice in the bedroom say, "He's good and dead now."

In addition to the murder of Hampton and Clark, four other Panthers received serious gunshot wounds, including from a police Tommy gun used by an officer, who said he was providing "covering fire." The four wounded Panthers, along with three others who were not shot, were all charged with attempted murder. After these charges were dropped because the prosecution acknowledged the physical evidence did not support the police testimony,

the PLO started a civil case against the raiders and their supervisors. This legal battle took thirteen years including an 18-month trial in 1976 through 1977, two trips to the Court of Appeals, and one to the U.S. Supreme Court. In all of these cases Taylor—learning on the job—played a leading role. Ultimately, in 1983, the families of Hampton, Clark, and the survivors obtained a large settlement, one third of which was paid by the FBI. The story is told in rich detail in an earlier PLO book, *The Assassination of Fred Hampton*, by the undersigned Jeff Haas, who was co-counsel with Taylor in what was then the longest civil trial in U.S. history. Like the present volume, Haas's book provides an intricately detailed account of CPD's radical perversion of power, indulged and defended by the City's political leaders.

After fully establishing himself as a civil rights practitioner during the Hampton epic, Taylor moved ahead through a number of cases, including an action against police, the Ku Klux Klan, and Nazi members for the wrongful death of five members of the Communist Workers' Party who were ambushed as they and others prepared for a civil rights march in Greensboro, North Carolina in 1979. Taylor also worked on several important Chicago cases involving deadly police violence and systemic cover-up of evidence. It was in the midst of this flow of work that Taylor, Haas, and Stainthorp, as detailed above, got drawn into Wilson's case.

After the Court of Appeals ordered a new trial for Wilson in his civil rights case, Taylor found himself involved in a series of post-conviction cases on behalf of a series of prisoners who were torture victims who sought his help in trying to get their convictions opened up. In his conscientious way, he kept careful files, replete with transcripts, memos, and even newspaper clippings, from all the cases they did, and this enabled the grim, intricate history he presents here of the Burge torture regime at Area Two.

In case after case, the reader is led through the complex and often arcane process of the post-conviction and civil rights cases, by extended quotations from the original court proceedings, the pleadings, affidavits from the prisoner-victims, transcripts of colloquy in the courtrooms, rulings by judges—including several extraordinary statements by judges who came to realize the gruesome reality behind the petitions before them—and news reports of various actions and outcomes. Every so often there appears a verbatim, detailed statement by a victim—nearly unbearable to read—of just what was done to him, how it felt, and the creative steps by which the officers led him to affirm their fabricated statements of how the crime was supposedly committed. This painfully detailed torture included electric shock to the genitals (with the Torture Machine and cattle prods), mock executions with pistols and shotguns, near suffocation with bags and typewriter covers, beatings with rubber hoses and telephone books, and accompanied by racial epithets in the pursuit of confessions and lawless punishment.

In all, Taylor and his PLO colleagues—most particularly Attorneys Haas, Stainthorp, Joey Mogul, Tim Lohraff, Ben Elson, Erica Thompson, Sarah Gelsomino, and Brad Thomson—represented scores of prisoners with torture claims, obtaining exonerations, pardons, substantial damages, and reparations from the City of Chicago in satisfaction of torture claims. In 2006, a four-year investigation by Cook County Special Prosecutors, appointed after sustained public pressure around the torture issue, yielded only a whitewashed report that exonerated Daley and other high ranking officials. In 2008, Jon Burge, who had been dismissed from the police force in 1993, was indicted by the local U.S. Attorney's office, after a sustained campaign by the lawyers, together with several community groups who had been drawn into the campaign of exposure initiated by the PLO. Although the statute of limitations for acts of torture had long since ran, Burge was charged with perjury, for his arrogant sworn denials in one of the civil cases that he knew anything about torture. Convicted by a jury in 2010, Burge served three and a half years in federal prison, before his release in 2014. He died, broken but unrepentant, in September 2018. None of his confederates were ever prosecuted. They, like Burge until his death, have continued to collect their police pensions.

No case better represents the combination of indefatigable lawyering, the limitations of the court system, and the ability of political lawyers and an engaged community to find creative and political solutions than the case of Darrell Cannon. Denied relief by the district court for his claims of torture and wrongful conviction resulting in a twenty-four year sentence because he had accepted a three thousand dollar settlement, when Burge's torture crimes were still being hidden, Cannon seemed to have found a decidedly sympathetic response from Federal Appellate Judge Ilana Rovner who was on the panel hearing his appeal.

Before he began his oral argument, Judge Rovner asked the City Attorney, "On what planet does he [Cannon] have a meaningful redress in the courts under those circumstances.... You would have us enforce a settlement procured by defendants who so rigged the deck that no plaintiff could have proven a legitimate claim and that to me seems to be the bottom line here." She continued with similar loaded questions indicating complete disdain for the City's position. Expecting a favorable decision Cannon and PLO lawyers turned down a million dollar offer to settle from the city, only to find it evaporated when, fifteen months after the argument, Rovner and her two 7<sup>th</sup> Circuit cohorts upheld the District Court's dismissal. Cannon, like many of Burge torture victims was left without a legal remedy for compensation even though he and they had established their convictions were based on confessions coerced by Burge and his henchmen.

By this time, community groups, who were influenced by the revela-

tion of Burge's torture and the compelling accounts of the victims, had created the Chicago Torture Justice Memorial (CTJM), and Taylor's PLO co-counsel Joey Mogul, with input from the CJTM drafted a reparations ordinance, which included compensation for all those like Cannon who were locked out of the legal system. Taylor cites CTJM leader Mariame Kaba to explain why the term reparations was used: "The racial component of this is an essential part of the torture itself... The victims were subjected to repeated racial epithets." Taylor relies further on Kaba to write "the term reparations was used [to] reflect the fact that this was compensation meant to make amends for abuse at the hands of the state, and underscores that race and bias were central."

With relentless pressure the community, Cannon as one of the CTJM's main spokespersons, the reparations ordinance was finally able to gain passage by the city council in 2015. It provided reparations payment to numerous torture victims, a full public mayoral apology, a center for the treatment of torture survivors, the establishment of a physical memorial, and a rule that all eighth and tenth grade students in Chicago's public schools would be given full instruction about the history of Chicago police torture. Indeed this unprecedented ordinance follows the historical demands, not yet realized nationally, of many African-American leaders and community members. It is an illustration of collaboration, communication, and respect between peoples' lawyers and the movements and clients for whom they advocate.

This book is hard to read. It isn't because of the intricately detailed accounts Taylor compellingly presents of the various cases he worked on—some of which he is still working on. Rather, it is the overwhelming truth of remorseless crookedness, cruelty, and, above all, racism of these sworn peace officers, their colleagues, and their superiors in the station and otherwise, who studiously ignored what they were doing. Perhaps worse is the systematic blind eye that everyone else in the system turned, including politicians, judges, prosecutors, other police, defense lawyers, and prison officials, for so many years. How so many public servants, working every day, were able to ignore the stream of cases, from the same group of Area Two detectives, involving alleged confessions, by defendants who denied guilt and insisted that their purported confessions had been extracted by torture, all as recounted here, seems to be simply unfathomable. Even in a day and age when police kill unarmed black men regularly, all around the country, it is hard to imagine that such an overwhelming number of similar accounts were ignored. An answer may be found in the second meaning suggested by the book's title—Chicago's political machine, the Daley machine as it were, is, at bottom, why the scandal of all police scandals was officially sanctioned.

*The Torture Machine* describes the action and the drama. It takes us inside the lawyer's mind in many momentous civil rights cases. It shows the dedication, ingenuity, strategic thoughtfulness, and persistence shown by its author and his colleagues in the People's Law Office, in the face of concerted state resistance, for so many years, with such outstanding results. Truly, he has vindicated—as have others—the audacity shown fifty years ago, when with some trepidation, he and his youthful cohorts, including the reviewers here, determined to call themselves The People's Law Office, and set about trying to live up to that name. Flint Taylor has done it, beyond measure, and the proof is here.

