Legislation Details (With Text)

File #:	SO2015-2687		
Type:	Ordinance	**Status:**	Passed
File created:	4/15/2015	**In control:**	City Council
		Final action:	5/6/2015
Title:	Establishment of "Reparations for Burge Torture Victims" fund		
Sponsors:	Emanuel, Rahm, Moore, Joseph, Brookins, Jr., Howard, Moreno, Proco Joe, Osterman, Harry, Willie B. Cochran, Mitts, Emma, Reboyras, Ariel, Thomas, Latasha R., Ervin, Jason C., Harris, Michelle A., Mendoza, Susana A.		
Indexes:	Miscellaneous, SOCIAL ISSUES & PROGRAMS		
Attachments:	1. SO2015-2687.pdf, 2. O2015-2687.pdf		

Date	Ver.	Action By	Action	Result
5/6/2015	1	City Council	Passed as Substitute	Pass
5/5/2015	1	Committee on Finance	Substituted in Committee	Pass
4/15/2015	1	City Council	Referred	

ORDINANCE

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHICAGO: SECTION 1 - TITLE.

This ordinance shall be known as the "Reparations for Burge Torture Victims" Ordinance.

SECTION 2 - DEFINITIONS.

As used in this Ordinance, the following definitions shall apply:

"Burge victim" or "victim" means any individual with a credible claim of torture or physical abuse by Jon Burge or one of the officers under his command at Area 2 or Area 3 Police Headquarters between May 1,1972 and November 30,1991.

"Credible claim" means a credible claim of torture or physical abuse by Jon Burge or one of the officers under his command at Area 2 or Area 3 Police Headquarters between May 1,1972 and November 30, 1991.

"CTJM" means the Chicago Torture Justice Memorials organization.

"Fund" means the Reparations Fund for Burge Torture Victims established by this Ordinance.

SECTION 3 - REPARATIONS - SUBSTANTIVE PROVISIONS.

a) Fund established-Per capita amount. The City of Chicago shall establish a Fund of $5.5 million, which shall be known as the Reparations Fund for Burge Torture Victims. Each individual with a credible claim, which shall be determined using the criteria set forth in subsection (b), shall receive no more than

$100,000.00 in financial reparations, which shall be paid from such Fund. Provided, however, that if an individual with a credible claim has already received compensation (such as by settlement of his or her claim(s) arising out of the torture or physical abuse), such individual shall receive up to $100,000.00 minus the amount of the prior compensation. Provided further, that if the Fund is insufficient to pay each individual with a credible claim $ 100,000.00 (less any prior compensation), eligible claimants will receive a proportionate share of the Fund. Proportionate shares shall be determined by dividing the total amount in the Fund by the total number of eligible claims (with each claim that was reduced by any prior compensation counted as a fraction of a claim, the numerator of which is the amount of the reduced claim and the denominator of which is $ 100,000.00). Payments from the Fund shall commence after all eligible claims have been determined.

b) Eligibilityfor financial reparations. Except as otherwise provided in paragraph (2) of subsection (f), any Burge victim is eligible for financial reparations. Criteria to be considered when

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detennining whether a claim is a credible claim include: (1) when and under what circumstances the claim of torture or physical abuse was first made or reported to someone, (2) the consistency of the claim over time, and (3) any credible affirmative proof rebutting the claim; provided, however, that denials by Jon Burge or other officers who have invoked the Fifth Amendment in response to questions about police torture or physical abuse shall not be considered affirmative rebuttal proof. Using these criteria, if an individual is deemed to have a credible claim, he or she shall be entitled to financial reparations in the manner provided in this Ordinance. Tlie nature and severity of the torture or physical abuse and the claimant's guilt or innocence ofthe underlying crime shall not be considered when determining either eligibility for or the amount of financial reparations.

c) Deceased victims. The heirs or estate of a deceased Burge victim shall not be eligible for financial reparations from the Fund.

d) Processfor determining eligibilityfor reparations. Within 45 days of the effective date of this Ordinance, CTJM will provide the City with a list of individuals whom CTJM has determined: (1) are eligible Burge victims, and (2) wish to apply for financial reparations. Within 45 days of receiving CTJM's list, and after consultation with CTJM attorneys, the City will specify the individuals on CTJM's list whom the City agrees have a credible claim. Those individuals whom both CTJM and the City agree have a credible claim shall be entitled to financial reparations from the Fund.

e) Dispute resolution. If CTJM and the City do not agree that an individual on CTJM's list has a credible claim, such individual is entitled to seek review of the matter before an independent third party arbitrator ("arbitrator") agreed upon by CTJM and the City. Proceedings before the arbitrator shall be informal, non-adversarial, and expedited. The City, CTJM, and the claimant and/or the claimant's chosen representative each shall have an opportunity to briefly state why they contend the claimant is or is not eligible for financial reparations, applying the criteria set forth in subsection (b), and to present documentary evidence in support of his or her claim. The arbitrator shall promptly decide whether the claimant has a credible claim, and the arbitrator's decision shall be final and binding. The City and CTJM shall work together to identify an arbitrator

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willing to perform these services pro bono.

f) (1) Notice. Except as omenvise provided in paragraph (2) of this subsection (f), notice of the financial reparations provided for by this Ordinance shall be posted on the City of Chicago's website for a 30-day period commencing on the effective date of this Ordinance. Burge victims shall be given 60 days thereafter to file a claim, in the manner provided for in the claim form required under this subsection (f)(1), requesting financial reparations.

Claims shall be made on a claim form to be agreed upon by the City and CTJM and posted on the City's website. At a minimum, the claimant shall be required to provide: (i) his or her name and contact information; (ii) the details ofthe alleged torture or physical abuse, including the date, location, and nature of the torture or physical abuse; (iii) the names of the individual(s), if known, who committed the torture or physical abuse; (iv) any documentary evidence supporting the claim of

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torture or physical abuse, including evidence that reveals when the claim was first made; and, (v) if the claim of torture or physical abuse is being made for the first time, an explanation for the delay in making such claim.

(2) Compliance contingency. The City's legal obligation to comply with paragraph (1) of this subsection (f) is contingent upon CTJM identifying an independent third party, who is willing to work pro bono, to determine whether any claimants not previously identified by CTJM as Burge victims are eligible to receive financial reparations using the criteria set forth in this Ordinance. A determination by such independent third party that a claimant is not eligible for financial reparations under this Ordinance shall be final and binding. A determination by such independent third party that a claimant is eligible for financial reparations under this Ordinance shall be subject to review by CTJM and by the City. If CTJM and the City do not agree that a claimant has a credible claim of torture or physical abuse, the dispute resolution process set forth in subsection (e) of this Ordinance shall apply.

g) Waiver. As a precondition to receiving financial reparations, all eligible claimants shall sign a written waiver and release of any future claims, losses, damages, or expenses, including attorneys' fees and costs, in any way arising out of or relating to the alleged torture or physical abuse.

h) Reversion of Fund monies to the City. Payment of financial reparations provided for in this Ordinance shall not exceed $5.5 million. In the event that any monies remain in the Fund after all individuals with a credible claim have received reparations as provided for in this Ordinance, such remaining monies shall revert to the corporate fund of the City.

SECTION 4. This Ordinance shall take full force and effect upon its passage and approval.

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CHICAGO May 6, 2015 To the President and

Members of the City Council: Your Committee on Finance having had under consideration

An amended ordinance establishing the Reparations Fund for Burge Torture Victims.

02015-2687

Having had the same under advisement, begs leave to report and recommend that your Honorable Body pass the proposed Ordinance Transmitted Herewith
of members of the committee with dissenting vote(s

This recommendation was concurred in by

(signed

Respectfully submitted
Chairman

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