

Jerry Mahaffey



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On Monday, August 29, 1983, in the Rogers Park area of Chicago, a home invasion turned fatal. JoEllen and Dean Peuschel were killed in their home by two robbers in the presence of their 11-year-old son, Richard. JoEllen was raped and pistol-whipped, Dean was stabbed thirteen times, and both adults were beaten with baseball bats. Richard was forced to watch, choked and beaten to unconsciousness. Joseph Heinrich, JoEllen's father, found his daughter and son-in-law when he went to their apartment because Richard had not been dropped off as expected.

The Peuschels' car, firearms, jewelry, and other items had been stolen.

On Friday September 2nd, three days after the murders, Cedrick Mahaffey contacted police at Area 2 Homicide on 95th St and met with Sgt. John Byrne and Det. Charles Grunhard. Mahaffey told them he knew who was responsible for the crimes of the previous Monday in Rogers Park. He said he'd seen some of the items taken from the victims' home when he reluctantly gave his brother Jerry a ride to his other brother Reginald's home where they divided the property between them. Cedrick said he realized the property was stolen and asked Jerry where he'd gotten it and Jerry responded that the goods were "from two murders." Cedrick correctly described guns that were taken from the victims' home and gave police a video cassette that had also been taken although it's not clear how the video came to be in Cedrick's possession. At trial, surviving family members identified the jewelry, guns, and other items seized from Jerry's apartment by the police as belonging to the Peuschels. An abandoned car found nearby (exact location not stated) on the afternoon of August 30, 1983, was also identified as belonging to Jo Ellen. No scientific evidence was presented that tied Jerry or Reginald to the crime scene.

Jerry and Reginald Mahaffey were arrested by police. Officers had canvassed the area of the crime and spoken with neighbors. They obtained a description of two people seen in the area but later, at trial, defense cross examination of several witnesses revealed that the initial description of suspects by neighbors did not match Jerry or Reginald but could have matched Cedrick. However, Cedrick was never positively identified, apparently never suspected, and not arrested by police.

Jerry and Reginald Mahaffey both interrogated. They confessed to the crimes and were convicted and sentenced to death. On January 11, 2003 their sentences were commuted to life without parole by Governor George Ryan.

While awaiting trial, Jerry and Reginald participated, with other inmates, in an armed escape from Cook County Jail but were apprehended days later. Both pled guilty to charges stemming from the escape.

At their trial their defense moved to suppress their confessions on the grounds they had been coerced. At the suppression hearing the arresting officer, Sgt John Byrne, testified that he and Detective Charles Grunhard arrived at Jerry's apartment at about 5:40am on Thursday, knocked on the door, showed their IDs and were let in by Jerry's wife Carol. Det. Grunhard said he read Jerry his rights and took him into custody without a struggle. Byrne testified that Carol asked to be allowed to remove her daughters from the apartment and then gave written consent for them to search the apartment.

Contrary to Byrne's testimony, however, Carol and Jerry both testified that the officers pushed their way in past Carol at gunpoint. Carol and the children were soon removed from the premises by police. Jerry testified that he denied knowing about any murders, and that Det. Grunhard punched him in the nose, causing it to bleed. Another officer then grabbed him by the collar, threw him against the wall, and put a gun to his head.

The officers put him on his daughter's bed and kicked him in his groin and twice in his ribs. The officers threatened to put his children in an orphanage and his wife in prison. They retrieved a plastic garbage bag from a closet and tightened it over Jerry's head so he could not breathe. He testified that he was punched in the nose, struck, and threatened. He said that he was wearing a pajama top and bottom, but the police made him change after his pajama top became bloodied due to his bleeding nose. The pajamas were put into a plastic bag and removed.

Jerry testified that at Area 2 Headquarters no one informed him of his constitutional rights and that Byrne and Grunhard tightened his handcuffs and told him to tell them what he knew because he was going to die. He was formally questioned by Assistant State's Attorney Irv Miller. At 1:00 pm a court reporter was called in and Jerry gave a 20-page confession, admitting that he and Reginald committed the crimes and describing how they were committed. He signed the confession at 4:35 p.m. in the presence of ASA George Veitch. A photo was taken of Jerry at about the time he signed the confession.

In his Motion to Suppress Jerry stated that several police officers, particularly Sgt. John Byrne, Dets. John Yucaitis, Edmund Leracz, Ray Binkowski, Grunhard, James Lottito and Ronald Boffo told him that if he didn't tell them "where he received the property, he would fry that night." He also identified Officer Grunhard as the officer who hit him in the nose and Sergeant Byrne and Officer Grunhard as the officers who threatened him at Area 2.

Judge Thomas Hett denied Jerry's motion to suppress his confession because there was "no substantial evidence to support the claims of brutality and there is overwhelming evidence to refute them."

Jerry filed a claim of police torture with the Torture Inquiry and Relief Commission. He cited the following evidence from the suppression hearing in support of his claim.

- A medical doctor's opinion and a post-arrest police photo appeared to show a minor injury to his nose and possible dried blood;
- Medical records that show one Terry Mahaffey, Jerry's brother who was arrested with Jerry but not charged with the crime, was treated at Cook County Hospital for upper GI bleeding and trauma to the whole body within days of his release;
- Jerry's trial counsel testified that Jerry told him the details of the beating at their first meeting, shortly after his arrest;
- Jerry's brother, Cedrick, testified that he heard Jerry being thrown around and shouting at the police station, where the door had been left ajar and he could see Jerry and recognize his voice.

There have been a series of allegations of torture of suspects by some of the detectives who arrested Jerry, some of which have been accepted by courts.

Jerry Mahaffey filed post-conviction and habeas corpus petitions in state and federal courts. He argued that he received ineffective assistance at his suppression hearing because counsel failed to investigate and introduce evidence.

The Supreme Court disagreed ruling that Jerry had not shown the "prejudice" required for a post-conviction petition because (1) he had many prior contacts with the criminal justice system, implying that he could understand the *Miranda* warnings; (2) it did not override "the great weight of the evidence" that Jerry was not beaten; and (3) there was no proof of a pattern of brutality at Area 2, and the officers who arrested and interrogated Jerry were not specifically named as involved in prior incidents.

Jerry filed a pro se claim with the Torture Inquiry and Relief Commission (TIRC) and was interviewed by TIRC staff on June 13, 2013.

He named Detectives Boffo, Grunhard, Gutrich, Sergeant Byrne, and Officer Lotito as the officers involved in the torture.

Former ASA Miller, in his interview with TIRC staff, detailed his practice of deliberately creating errors in statements from witnesses, including suspects about to be charged with crimes. In addition to Irv Miller, a Cook County Circuit Court Judge, Thaddeus Wilson, also suggested that the state's attorney's office has a history of intentionally making mistakes in statements to bolster authenticity. While the court reporter typed up the statement for Jerry, he provided food or beverages and had the court reporter take a Polaroid of Mahaffey holding the item. Staging a post-confession photo with a can of pop and a cigarette, or something similar, was a frequent practice and was done so that the atmosphere would look less coercive.

The Commission attempted to interview and/or depose key police officers involved in Jerry's arrest. John Byrne and Detective Boffo asserted their Fifth Amendment right not to testify while Detective Charles Grunhard and John Yucaitis are now deceased.

The types of beating and the bagging suffered by Jerry are consistent with the conduct identified in the Office of Professional Standards' findings of systematic and methodical torture at Area 2 under Jon Burge. TIRC records show that Sergeant Byrne had been accused of abuse and coercion in 21 cases, including 9 complaints of "bagging," where a plastic bag is tightened around a suspect's head to inhibit breathing; Detective Grunhard had been accused in 6 cases, including 5 complaints "bagging"; Detective Boffo had been accused in 7 cases, including 4 complaints of "bagging"; and Officer Lotito had been accused in 8 cases, including 4 complaints of "bagging."

In January 2016 the Commission found that in Jerry Mahaffey's case there was "insufficient evidence of torture to merit judicial review." However, two commissioners dissented arguing that:

- The description of the abuse and torture fit the required definition, and that much of the description of his arrest and interrogation "was corroborated" by several sources;
- Their review of the suppression hearing decision suggest the trial judge "thought the arrest and interrogation had been regular."
- The majority had not given sufficient weight to Sgt Byrne's pleading of the 5th amendment in light of the many allegations against him.
- The majority gave too much weight to the "unannounced appearance of ASA Miller" who they found to be a credible witness despite his acknowledgment of the frequent use of coercion by Chicago police officers stationed at Area 2 to extract confessions.
- The commission had failed to call other significant occurrence witnesses including Sgt. Byrne and that had had they heard from these other witnesses, they believe the decision would have been different.

Jerry maintains his innocence in this case although the Commission believes his claim of innocence is not credible based on the evidence presented at trial. But part of that evidence was the confession that Jerry gave in the face of the torture he experienced at the hands of Chicago police. Jerry's story of the torture he experienced has remained consistent over the years and is consistent with the widespread pattern of practice by some Chicago Police, including those named in Jerry's complaint.

