



Paper: Chicago Tribune
Title: Veteran detective's murder cases unravel
Some statements cop has extracted stand out for way they fall through
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He has obtained a confession from a man who, records show, was in jail when the murder occurred. He has obtained a confession from a man accused of two murders, but both cases were undermined by DNA evidence.

He helped to get confessions from two mentally retarded teenagers for two separate murder cases, but they both were acquitted. And he got the confession of a 13-year-old with severe learning disabilities who experts said could not understand his rights.

Chicago Police Detective Kenneth Boudreau has helped to get confessions from more than a dozen defendants in murder cases in which charges were dropped or the defendant was acquitted at trial.

And in one case, two defendants who confessed and were convicted are challenging those verdicts with results from DNA tests conducted after trial.

A Tribune investigation of thousands of murder cases filed in Cook County from 1991 through 2000 found that Boudreau and other city detectives had been involved in a wide range of cases that ultimately collapsed even though police obtained a confession.

One veteran detective has been assailed by defense attorneys and questioned by judges for getting a string of questionable confessions from juveniles. One recently retired detective played a part in at least eight cases in which police obtained a murder confession but the courts ruled the arrest was illegal--often a precursor to a disputed confession.

But Boudreau stands out not only for the number of his cases that have fallen apart, but for the reasons.

In those cases, Boudreau has been accused by defendants of punching, slapping or kicking them; interrogating a juvenile without a youth officer present; and of taking advantage of mentally retarded suspects and others with low IQs.

Boudreau, who has earned numerous commendations for his work, declined to comment for this article. In court hearings for his cases, however, he has denied any allegations of wrongdoing, and in a sworn deposition that was part of a lawsuit, he stated that he would never condone such tactics, much less participate in them.

2 murders, 2 confessions

In June 1995, Derrick Flewellen, then 30, was walking out of St. Bernard Hospital and Health Care Center, where he had been treated for a dislocated toe.

He was approached by Chicago detectives investigating the murders of two women. Flewellen's name had come up in the investigation through an acquaintance of one of the victims.

The detectives asked Flewellen to accompany them to the violent crimes unit at 51st Street and Wentworth Avenue.

There began a lengthy interrogation that ended only after he signed two confessions to murders for which he was eventually acquitted, one of which was linked to another man through DNA. Now, six years later, Flewellen is suing the detectives and Police Department in federal court for false arrest and malicious prosecution.

Boudreau and other detectives involved in the Flewellen case denied any wrongdoing during his trial and in response to his lawsuit, according to court documents.

In an interview with the Tribune, Flewellen said he first saw Boudreau when he arrived at the police station. Boudreau accompanied him to a room with a table, chairs, a bulletin board and several boxes of papers.

Boudreau, Flewellen said, asked him about the murders of Sherry Hunt and Lovie Ford, who had been killed on the South Side two days apart.

Flewellen said he told Boudreau he knew nothing about the murders. "He asked me again, and I said I'd like to have my lawyer," Flewellen said. "He took the back of his hand ... and he struck me on the side of the head."

Flewellen said he was interrogated over more than 36 hours, sometimes by Boudreau, sometimes by other detectives.

During that time, he said he was moved among as many as three rooms. He said he was slapped and hit on several occasions by Boudreau and other detectives. At one point, he said, Boudreau came in the room, closed the door and started to choke him. He said Boudreau slammed him against the wall and hit him in the face.

Another detective came in, according to Flewellen, and pulled Boudreau off. He then stomped on Flewellen's foot, which was protected only by a soft walking cast. Flewellen said he screamed in pain.

"I was on the floor, and I kept telling them I didn't do it," he said.

Not long after, Flewellen signed handwritten confessions to the two murders. "I wasn't about to go through all that again," he said. "I signed. I didn't think I had any other choice. I wasn't going to get beat up again."

Flewellen confessed to forcing Hunt into oral sex, hitting her on the head and smothering her with a towel. He told police he watched another man kill Ford and have sex with the body.

Flewellen said in the confessions that Hunt was killed because she stole \$90 worth of drugs from him and Ford had to be killed because she found out about Hunt's murder.

The Cook County medical examiner's office initially could not determine the cause of Hunt's death, though natural causes were listed as a possibility because she had bronchial pneumonia and severely infected lungs at the time of her death. After Flewellen confessed, the medical examiner's office ruled Hunt's death a homicide.

Flewellen challenged his confession at a pretrial hearing where one of his friends, Gregory Watkins, testified that he was brought in as part of the investigation and was in an interrogation room near where the detectives were questioning Flewellen.

"I could hear him screaming," Watkins testified. "I heard him scream and I heard him say, 'No, no' and I heard something like ..." At that point, Watkins pounded hard on the witness stand with his fist.

Watkins testified that he recognized Flewellen's voice saying, "No, I didn't do it" and then heard "smacks, screams ... thumping ... like someone was beaten up or something. ... It went on for about a half-hour, and then it stopped and it started back up again and then I didn't hear no more."

The detectives denied they had physically abused Flewellen, and Cook County Circuit Judge Marcus Salone declined to suppress the confessions.

At trial, Flewellen's lawyers pointed to recent DNA testing that showed semen taken from Ford didn't match Flewellen or the man named in his confession as an accomplice. Instead, it matched another man well known to police: Hubert Geraldts, who has since pleaded guilty to killing five women and was sentenced to life in prison but was never charged in the Ford murder.

With the DNA failing to link Flewellen to the murders and even contradicting his statement, there was little evidence against him. Salone acquitted him in both murders.

"The most damaging testimony against Mr. Flewellen is his respective statements given to investigating police officers," Salone said from the bench. "No one was able to testify that they ever observed Mr. Flewellen in the company of either of the victims. There was nothing to put Mr. Flewellen in the apartment of Miss Hunt.

"The objective scientific evidence is a complete contradiction to the defendant's respective statements. The

evidence falls far short of what is necessary to sustain a verdict of guilt beyond a reasonable doubt."

Depositions paint self-portrait

Testifying under oath in 1996 as part of a federal civil rights lawsuit, Boudreau explained how he viewed allegations of wrongdoing by police.

"When I go to court and the defendant makes an accusation against me, it's nothing more than perjured testimony to try and escape punishment," Boudreau testified.

That 500-page deposition, along with another deposition from June 2000 that was part of a separate lawsuit, offers a self-portrait of Boudreau as a man who views the criminal justice system, and his role in it, in stark terms. Police always follow the rules, and suspects always try to get away with crimes by accusing the detectives who catch them of wrongdoing.

"My experience with the criminal court system," he said, "[is] that whenever a defendant is charged with a serious crime, he tends to blame everybody else except himself when it comes time for trial."

Boudreau's depositions also provide a primer on his 20-year police career, one that has brought him many accolades.

By the summer of 2000, he had received nine department commendations, he testified. He had been the police officer of the month in his district on two occasions. He had received more than 70 honorable mentions.

He also has been rewarded with prestigious assignments. In recent years, he has spent time on the department's cold case squad, trying to crack aging, unsolved cases, and investigating organized crime. Currently, he is assigned to a federal violent-crime task force.

In September, he helped organize a volunteer contingent of 50 Chicago police officers to New York City to help search for victims of the attacks on the World Trade Center.

Before he joined the Chicago Police Department, Boudreau was an officer for five years in Palos Hills. He started the department's Officer Friendly program and rose to the rank of detective. He once was named officer of the year for solving a series of thefts and burglaries, said Palos Hills Police Chief Paul Madigan.

"He was an extremely good detective," Madigan said. "He cleared up a lot of cases."

In 1986, Boudreau began his career in Chicago as a patrol officer, and less than four years later he was promoted to detective.

The promotion would have sent him back to the training academy, where new detectives receive three weeks of training, including hours on interrogating suspects.

The training includes role-playing and lectures. But the real education takes place on the street, according to veteran investigators.

Boudreau's first assignment as a Chicago detective was at the now-closed violent crimes headquarters at 39th Street and California Avenue. There, a cage for prisoners was decorated with a poster of hands gripping jail bars and a caption that read: "And Another Happy Ending," Boudreau testified.

Boudreau described himself as a hard worker and, to provide a break from the grim nature of the job, an office prankster who attached photographs of his colleagues to cartoon-character bodies and hung them in the office.

Three months after his promotion, Boudreau, a member of the Army Reserves, was called to active duty in the Persian Gulf war. He worked as a bodyguard and assistant to Maj. Gen. Terrence Mulcahy, who was then the highest ranking officer in the Army Reserves.

"Ken was invaluable to me," said Mulcahy, now Wisconsin's secretary of transportation. "The professional relationship I had with him was excellent."

When Boudreau returned to the Chicago police force in June 1991, his boss, Cmdr. Jon Burge, was entangled in one of the department's biggest scandals. Burge was facing allegations that he and some of his officers at the South Side headquarters in the Calumet District had repeatedly beaten and tortured murder

suspects in the 1980s.

Boudreau testified that he supported Burge, who eventually was fired. He said he sold raffle tickets and donated money to help fund Burge's legal defense.

Boudreau also testified about one mark on his record.

Police investigators recommended that he be suspended for 10 days for his failure to get a youth officer into the interrogation room as required when questioning a juvenile suspect, Boudreau said in a deposition.

But, he added, police commanders reduced his punishment to a reprimand.

The 1991 murder case that precipitated that discipline had generated headlines because of allegations of police brutality, though Boudreau was not one of the officers accused of physically mistreating any of the suspects.

Six young suspects gave confessions. Two of those confessions were thrown out, and the charges were dropped. The remaining four were acquitted, including two who had been interrogated by Boudreau.

Throwing out one of the confessions, a trial judge cited the "oppressive atmosphere" in the station that night. The Illinois Appellate Court upheld that ruling, noting the "periodic screaming throughout the night," something Boudreau testified he did not hear.

Confessions, acquittals

In a two-year period beginning in late 1991, Boudreau helped solve at least five murders with dubious confessions that ended with acquittals, according to the Tribune's review.

The suspects said Boudreau or a partner mistreated them to get a confession, allegations the officers denied.

In one case, Boudreau and a partner said Alfonzia Neal, 31, confessed to strangling William Mack, 85, who had been found dead in Mack's apartment in the 700 block of West 60th Street.

Boudreau later testified that Neal waived his rights and signed a statement handwritten by a prosecutor. The confession said Neal had gone to ask the victim, a close friend he knew as "Brother Mack," for money. When Mack turned him down, Neal attacked him.

Lawyers for Neal later asked Cook County Circuit Judge Michael Toomin to suppress the confession, arguing that Neal was incapable of intelligently waiving his Miranda rights.

Experts hired by Neal's lawyers concluded that Neal had an IQ in the 40s, well below the dividing line for mental retardation, which is commonly placed at 70. Asked what it meant to remain silent, Neal had replied, "I know like Paul and silent in the Bible, but I'm trying to see which way do that go."

Asked to define a right, he replied, "Like right now."

Boudreau said he had no reason to believe that Neal was mentally handicapped during the interrogation. "His answers were direct, responsive and in full sentences," Boudreau testified.

Toomin refused to suppress Neal's confession, which was central to the prosecution's case. But a jury later acquitted him.

In December 1993, Boudreau and Detective John Halloran solved two separate murders with confessions from two mentally retarded teenagers. One victim was the daughter of a former police officer, the other a man killed during an armed robbery.

The suspects, Fred Ewing and Darnell Stokes, both 17, were classmates in special-education courses. Court-appointed experts testified that Ewing's IQ was about 56. One expert said Ewing "was unable to comprehend the substance of the confession which he allegedly made. ... He is virtually illiterate."

Asked by a psychiatrist during one pretrial evaluation what the right to remain silent means, Ewing replied, "It means you're going to jail." Asked if he thought he had to tell police if he did something, Ewing said, "They'll beat you up and scare you if you don't."

Stokes' attorney, Martha Fitzsimmons, said Stokes was just as malleable as Ewing.

No physical evidence linked Ewing and Stokes to the murder of the daughter of the former police officer, and separate juries acquitted them both.

Cook County Circuit Judge Daniel Kelley then acquitted them both of murdering the man during an armed robbery. Not only was there no physical evidence, a witness testified that Ewing was not involved.

In 1998, in a case that echoed those of Neal, Stokes and Ewing, Boudreau helped get a murder confession from a 13-year-old boy with a verbal IQ of 59 and full scale IQ of 73.

Four months ago, Cook County Circuit Judge Bertina Lampkin ruled that the boy did not have the mental capacity to waive his rights and threw out the confession. Prosecutors then dropped the charges.

The first line of defense

Judges are regularly asked to examine defendants' claims of coerced and illegal confessions, but they face a difficult task sifting through the "he said-she said" nature of such hearings.

Police say suspects routinely invent charges of brutality and coercion.

In credibility contests, the police start with a big advantage and almost always win.

"Why aren't more confessions suppressed?" recently retired Criminal Court Judge Michael Bolan asked. "The cops are professional witnesses. They know what to say."

In 1993, the Illinois Appellate Court declared, "One of the tragic misfortunes in our society is that there is often little physical evidence of police brutality and the accused, ignorant of their legal rights, do not have the wherewithal to speak out in the midst of their entanglement with the law enforcement process."

Reflecting on a lengthy career as a defense attorney and judge, Bolan said that though proving misconduct is difficult, he believes it does occur.

"Sure, some cops stick their head in and say something threatening or give them a crack," Bolan said. "I'm certain that it occurred and it made people frightened and they fessed up. I'm certain those things happen. ... It's hard to document. Defendants don't write reports."

Bolan said some defendants lie about what happened in the interrogation room.

"But cops lie too," Bolan said. "They say, 'He stayed here for three days voluntarily.' Sometimes that is credible and sometimes it's just pure bull----."

Retired Cook County Circuit Judge Earl Strayhorn said he kept track of officers' testimony on note cards "that carried the name of every police officer that I caught lying in my courtroom."

"And," Strayhorn said, "if a case came down to a decision on an officer's credibility and he was in that file, I ruled for the defendant."

A Tribune review of hundreds of suppression motions found that although many contained allegations of physical and psychological abuse, defendants often were unable to identify the detectives who allegedly committed the acts, weakening their claims.

The interrogation process is, by its nature, intimidating. And for a suspect, learning and remembering detectives' names is not always a high priority.

What's more, defendants often are interrogated by two or more detectives who work in rotations and dress in street clothes without the nameplates that are pinned to the shirts of uniformed officers.

The first line of defense against bad cases are the prosecutors in the felony review unit of the Cook County state's attorney's office. The Chicago Police Department--except in extremely rare occasions--does not file murder charges against suspects without the approval of a felony review attorney.

Prosecutors typically are assigned to felony review duty before being sent to courtrooms to prosecute felony cases, and they are trained to offer defendants a choice between making an oral statement, a handwritten statement, a court-reported statement or, since August 1999, a videotaped statement.

"By the time the prosecutor shows up, it's a done deal," said assistant public defender Ann Collins, who helped defend Darnell Stokes. "The detectives have done the good cop-bad cop, they've made the fictitious promises, 'You can go home if you make a statement.' Generally, that all happens before the prosecutor comes in to be there to take the statement.

"I don't think they want to know what went on before. They turn a blind eye. What they want is a confession."

But Cook County State's Atty. Dick Devine said felony review prosecutors now demand more evidence from police before they will approve charges. They are requiring police to corroborate confessions, to check out suspects' alibis and, in some cases, to wait for autopsy reports to ensure they match the suspect's confession.

Twice as many cases get rejected at the felony review stage now than when he took office, Devine said.

"We have raised the bar on bringing cases into the system," he said.

Threats of long jail terms

"By the time they were through," said Peter Williams, "I actually thought I did it."

In March 1992, Boudreau and Halloran picked up Williams, who was 19, for questioning about a murder. They put him in an interrogation room and, according to Williams, slapped and beat him with a blackjack until he confessed.

"[Boudreau] was telling me how I did it and how I was going to go down forever," Williams, now 28, said in a recent interview in a South Side apartment. "He said I was never going home."

But Williams did go home. Police found records that showed he was in jail when the murder occurred, and the charges were dropped.

Dan Young Jr. and Harold Hill--whom Williams implicated in his confession and who also implicated Williams in their statements--were convicted and sentenced to life in prison without parole.

The investigation began in the predawn hours of Oct. 14, 1990, when firefighters were summoned to a blaze in an abandoned building in the 1400 block of West 55th Street. The partially nude body of Kathy Morgan was found in a second-floor apartment. She apparently had been killed by blunt trauma to the head and strangulation.

The case remained unsolved for 18 months, when Hill, who was 16 at the time of the crime, was arrested on unrelated charges.

Boudreau and Halloran testified that while they were interrogating Hill about that case, he confessed to taking part in the sexual assault and murder of Morgan. Hill gave a court-reported statement implicating himself, Young, who was 31, and Williams.

Hill testified at trial that he confessed only after the detectives and Assistant State's Atty. Michael Rogers fed him the story, including the names of Williams and Young, a charge that Rogers denied in court. Hill said that Boudreau slapped him in the face and "I was scared they were going to kill me."

Boudreau and Halloran denied in court that they ever struck Williams or Hill.

Two days after Hill confessed, police arrested Young, a man who court-appointed doctors said had an IQ of 56. Young gave a confession that similarly implicated Hill and Williams.

Young testified at trial that detectives whose names he did not know kicked and beat him, and that he signed a confession because he was afraid of more brutality.

Williams was arrested the next day. He told the Tribune that he was handcuffed to a radiator pipe for hours and urinated on himself when no one allowed him to use a washroom.

He was given a bologna sandwich to eat and, later, "one guy gave me a slice of pizza, but he dropped it on the floor first," Williams recalled. "I was hungry. I ate it."

The confession he gave to Boudreau and Halloran was even more detailed than either Hill's or Young's--containing comments allegedly made by Morgan during the assault.

Each confession said all three men had sex with Morgan and tortured her.

But sometime after he gave his statement, Williams figured out that he had been in Cook County Jail on a narcotics charge at the time of the crime. Detectives confirmed Williams' alibi and he was released, but prosecutors still tried Young and Hill.

At a pretrial hearing on the admissibility of Young's confession, two psychiatrists and one psychologist testified Young did not have the capacity to understand his rights to a lawyer and to remain silent.

They said Young did not know what a ship is or where the sun rises; could not count backward or subtract 6 from 10; and could not read or write anything besides his name.

The experts said his verbal IQ was 56--only 10 points above the lowest possible score. When asked if he had been getting enough sleep in jail, Young replied: "No. For breakfast. That's all."

Judge Thomas Durkin refused to suppress the confession, accepting prosecutor Rogers' explanation that he simplified the Miranda warning of suspects' rights for Young and that he understood them.

Young and Hill were tried simultaneously by separate juries. Prosecutors presented the defendants' confessions and called Dr. John Kenney, a forensic dentist, who said a bite mark found on the victim was left by Young and a bruise was left by Hill's mouth.

Hill and Young took the witness stand and denied being involved. In an attempt to undermine the confessions and discredit Boudreau and Halloran, defense lawyers also called Williams, who described his interrogation, arrest and release.

Both defendants were convicted and Durkin sentenced them to life in prison. But, in recent months, new evidence has surfaced that has prompted lawyers for Hill and Young to seek new hearings in their case.

DNA tests conducted on blood found under the victim's fingernails, which Young's defense attorney James Perlman believes was left during the struggle before her death, does not match the DNA of the victim, Hill or Young.

Also, a dental expert hired by Perlman disputes Kenney's findings, contending that Hill's jaw size didn't match the bruise.

In an interview at Pontiac Correctional Center, Hill said he didn't know Young or Williams before they were charged and locked up together.

"I never met them in my life," Hill said.

Why confessions are thrown out--and what happens next

Appeals courts have determined that a defendant's murder confession should have been thrown out in at least 70 cases since 1991, a Tribune search of Cook County appellate rulings shows. Confessions given by people who were taken into police custody and interrogated with insufficient evidence--considered an illegal arrest--account for more than half of those confessions.

REASONS CONFESSIONS WERE THROWN OUT . . .

TOTAL: 70

Police made an illegal arrest 37

Police made illegal search 1

Problems with interrogation 32

Juvenile interrogated without guardian 12

Suspect questioned after asking for lawyer 11

Confession coerced in some manner 5

Suspect could not understand rights 4

... AND WHAT HAPPENED TO DEFENDANTS IN THOSE CASES

TOTAL: 70

Charges were dropped 23

Convicted 22

Trial pending 11

Acquitted 5

Not guilty by reason of insanity 1

Died before retrial 2

Outcome unknown* 6

*Most of these defendants were juveniles, whose records are confidential.

Note: In 29 cases, murder charges were filed before 1991 but the appellate ruling came after that date. In the remaining 41 cases, murder charges were filed since 1991; those cases also are included in a broader Tribune study of 247 questionable confessions.

Source: Tribune analysis of Cook County court records

Chicago Tribune

THE SERIES

SUNDAY

Tainted confessions

Since 1991, at least 247 murder confessions have failed to hold up.

MONDAY

Police tactics

One cop's history of dubious confessions.

TUESDAY

Juvenile arrests

Police often violate laws designed to protect youths.

WEDNESDAY

A case study

When being in jail is no alibi

Caption:

PHOTOS 6 GRAPHIC

Caption:

PHOTOS (color): Harold Hill, who said police hit him and he confessed falsely to murder, is contesting his

conviction. An alibi freed a co-defendant; he was in jail at the time of the crime. Tribune photo by Ovie Carter.

PHOTO (color): Retired Cook County Circuit Judge Earl Strayhorn said he kept

track of officers' testimony once he caught them lying in his courtroom. "If a case came down to a decision on an officer's credibility and he was in that file, I ruled for the defendant," Strayhorn said. Tribune photos by Ovie Carter.

PHOTO (color): Derrick Flewellen demonstrates how a veteran Chicago police

detective allegedly choked him during an interrogation in 1995 and pressured him to confess to two murders. A judge eventually acquitted him in both cases.

PHOTO (color) : Harold Hill and his public defender, Ron Haze, discuss notes

in a visitation room in Pontiac Correctional Center. Tribune photo by Ovie Carter.

PHOTO (color): Dan Young Jr. was convicted of murder and sentenced to life in prison without parole in the 1990 killing of Kathy Morgan.

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