

IN THE CIRCUIT COURT OF THE ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA IN AND FOR THE COUNTY OF DADE

FALL TERM A. D. 1961

FINAL REPORT OF THE GRAND JURY

Filed

May 8, 1962

Circuit Judge Presiding

RAY H. PEARSON

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TO THE HONORABLE RAY H. PEARSON, CIRCUIT JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

On November 14, 1961, this Grand Jury was given the prescribed oath by Judge Ray H. Pearson.

Mindful of this oath and of the suggestion of our predecessors, we endeavored to present no man for envy, hatred, or malice. Neither did we leave any man unrepresented for love, fear, favor, affection, reward, or hope thereof.

In the course of our duties and with our oath constantly in mind, we investigated many aspects of our community. The results of our investigations are presented in this report.

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
CLEO TAYLOR, JR.	First Degree Murder	True Bill
ROOSEVELT JOHNSON	Second Degree Murder	True Bill
FRAZIER KNIGHT	First Degree Murder	True Bill
JAMES CURTIS SNOW	First Degree Murder	True Bill
LOUIS C. SWEET	Rape	True Bill
ROBERT MACK and URBAN THERON JONES	Rape	True Bill
DONALD LEE KROGER and MICHAEL G. KANE	Manslaughter	True Bill
EUGENE CALLAWAY	Manslaughter	No True Bill
BERNARD PORTER, ROMAN SCOTT, JR., GERALD JOSEPH, and HAROLD McARTHUR DAVIS	Rape	No True Bill
AUBREY HENRY, also known as TOMPIE; CLARENCE SIMPSON, also known as BOOBIE; JOSEPH MILLINGS, JR., and EUGENIA THOMAS	First Degree Murder	True Bill
LEEVERT AIKENS and WILLIAMS JENNINGS	First Degree Murder	True Bill
CARRIE MAE ARCHIE	Second Degree Murder	True Bill
MARCO A. GONZALEZ	Manslaughter	True Bill
C. B. PETRY	Grand Larceny, Forgery, Uttering Forged Instrument	True Bill
C. B. PETRY	Grand Larceny, Forgery, Uttering Forged Instrument	True Bill
C. B. PETRY	Grand Larceny, Forgery, Uttering Forged Instrument	True Bill
EMERY JAMES WILLIAMS	Second Degree Murder	No True Bill
EARL P. JONES	Second Degree Murder	True Bill
ROBERT H. LINTON	Manslaughter	True Bill
JOHN LEON PLAYER	First Degree Murder	True Bill

CHARITABLE SOLICITATIONS

The willingness of citizens of Dade County to make financial contributions to health and welfare agencies is evidenced by the many millions of dollars donated each year to worthwhile charities. These charities are for the most part responsible agencies. Their programs fill a community need and are administered efficiently. The proper operation of these agencies arises from dedication and devotion to a cause.

Unfortunately, there are other promoters who under the guise of civic purpose siphon off a large portion of these funds for their personal use rather than for the intended charity. The law does not presently impose adequate legal restraints on these unsavory operators. The contributor to charities should not have to be concerned with the honesty of the solicitor. It is the responsibility of government to provide proper legal safeguards. If the public is to make wise decisions on giving, it must have more objective information on what happens to each dollar it contributes.

At present, it is extremely difficult to distinguish between the professional bent on defrauding the public and the humanitarian seeking to support a community need. The "boiler room" operator whose aim it is to defraud the public can with little effort conceal his true intent under the present law. The inadequate administrator who, though well-intentioned, allows all but a small percentage of the funds to fritter away is subjected to no greater control than his own conscience.

Legal controls of charitable solicitations in Dade County are vague, confusing and inadequate. Each of our municipalities with their varying standards, require permits for solicitation purposes.

The many exemptions included in the laws negate the very purpose of their being.

In order to forestall a lack of public confidence that would do serious damage to legitimate causes, the public must be protected by regulatory legislation. The agencies through public information programs must show a profile of their activities which truly describe their purpose. This is a preventive medicine that is necessary to avoid a negative community reaction in regard to fund raising.

The representatives of leading fund raising agencies, who appeared before the Grand Jury, were of the conclusion that additional legislation is needed to drive out the fraudulent fund raiser and control the inadequate or inexperienced fund raiser.

Legislation should be directed at imposing strict controls on the fund raising aspect of charities. Disclosure of methods and finances should be required for public information. Many communities throughout the United States have developed legislation on this subject and their experience can serve as a pattern for Dade County. The body of knowledge that exists among our own fund raising agencies should similarly be employed in this effort.

This is a county-wide problem and should be implemented by Metropolitan Government.

The goal is to rid Dade County of the unscrupulous fund raiser, not to prevent legitimate groups from their operation. We must not be restrictive to the point of damaging worthwhile charitable causes.

The Grand Jury therefor recommends that the Dade County Commission forthwith enact suitable legislation which would provide more adequate controls over charitable fund raising.

CITY OF SOUTH MIAMI

The Grand Jury indictments of former South Miami City Manager C. B. Petry on charges of Grand Larceny, Forgery, and Uttering a Forged Instrument caused us to investigate further the governmental operation of that city.

Historically, the concept of the City Manager form of government confines the elected Mayor and Councilmen to the creation of policy and the City Manager to the implementation of the policy established.

In this instance, South Miami city officials failed to properly supervise the activities of the South Miami City Manager in his conduct of the alleged "security investigation" which resulted in the indictments. They neglected to obtain advice from their legal counsel as to the proper methods to be utilized in an investigation. Had careful and proper action been taken, earlier detection of the City Manager's wrongdoing would have resulted. The City Manager assumed authority to which he was not entitled. This would have been revealed by an adequate check on his activities by the City Council.

The report of the City of South Miami external auditor, dated March 30, 1962, makes reference to an earlier meeting with the City Council and states:

"We expressed to the Council our concern relating to the manner in which funds were disbursed for the purpose of paying the costs of a security investigation conducted earlier in the fiscal year. We recommended that any expense arising from any future security investigation be handled in a manner which would completely protect any persons having any participation either direct or indirectly."

It is not our understanding that the establishment of a City Manager form of government encourages elected city officials to abandon either their authority or interest in city government. No matter the form in use, a system of checks and balances must be in operation. Elected officials have a prime duty to be fully aware of the activities of their appointees. While they may delegate certain authority, the responsibility for overseeing appointees is theirs alone.

YOUTH HALL AND CHILDREN'S HOME AT KENDALL

The overcrowded condition of institutions for youthful offenders is a state-wide problem. The inadequacies of Youth Hall would be solved in the main by providing new state facilities or increasing the present capacity. The failure of the State cannot relieve Dade County of the existing problems at Youth Hall. Headlines scream "No Room at Youth Hall, so 24 Boys Land in Jail." "Youth Hall Rests on Powder Keg."

Under present conditions, Youth Hall cannot provide either a workable detention or training program. This kind of a facility can only become a breeding ground for crime. Delinquent and dependent children are highly susceptible to such environment.

Statistics provided by Juvenile Court officials show a bleak picture. Youth Hall now houses as many as 149 children daily in a facility built to accommodate 52 children and expanded to 122 beds. There are 58 children who have been adjudged delinquent and are awaiting shipment to institutions for delinquents. 39 have been assigned to Kendall, but cannot be admitted for lack of space. 19 are due to go to industrial schools when housing is available. The waiting time before departure from Youth Hall runs from one week to over two months.

As the population grows, this situation will worsen. Immediate emergency steps must be taken by the community.

The total situation in Dade County in regard to the juvenile problem is a monumental one requiring greater effort and concern than has previously been shown. The treatment of dependent children, for example, requires concentrated action. Dependent children should be the concern of the Welfare Department, not the Juvenile Court or Kendall. The proposed establishment of the Protective Services Bureau by the County Welfare Department is a step in the right direction and should be expedited. This program provides homemakers who will attempt to

re-establish or improve conditions at home so that it will not be necessary to have the Juvenile Court commit the child to Kendall.

The Grand Jury visited Kendall and was impressed with its operation. One could sense an environment conducive to proper rehabilitation. Again, overcrowded conditions prevent as complete a program as could be provided by the excellent personnel.

The Grand Jury recommends that the County devise a plan which will overcome the overcrowded conditions at Youth Hall. This has been a continuous problem which has caused comment by many of our predecessor Grand Juries. Immediate action is necessary, whether it be a new institution or enlargement or removal to another site. Our county should adjust itself to the fact that this will cause a considerable expenditure of money.

The Grand Jury endorses the program of the Protective Services Bureau of the Welfare Department as the proper agency to be concerned with dependent children.

Late in our term a controversy concerning the problem of admission control became public. The County Manager and the Judges of the Juvenile Court are in conflict on this subject. This is a matter which needs extensive inquiry and the benefit of expert testimony. We urge the succeeding Grand Jury to make a complete study of this problem.

CITY OF MIAMI BEACH

The City of Miami Beach Charter permits the granting of concessions on amusement and recreational facilities without the necessity of competitive bidding.

On October 4, 1961, the Miami Beach City Council accepted a proposal for the golf pro shop concession at Normandy Shores Golf Course. This award was based on a renewal of an existing contract with the person presently operating this concession. No bids were called for and none were received. Several citizens did, however, make known to city officials their interest in the concession. Their offers would have provided considerably greater revenue to the city. The City Council then proceeded to renew the contract of the present operator for a three year period with a slight increase in revenue.

The Grand Jury is aware that revenue is not necessarily the sole concern in providing services for recreational facilities. Nonetheless, standards should be established whereby citizens would have equal opportunity to compete for city business. The Grand Jury pointed out this deficiency to the City Manager.

The City Council has now accepted this philosophy of government by adding a proposed amendment to their charter on the May twenty-ninth ballot which provides for competitive bidding on recreational and amusement facilities.

CITY OF MIAMI OFF STREET PARKING AUTHORITY

The prior Grand Jury made an extensive investigation into the operation of the City of Miami Off Street Parking Authority. That Grand Jury made numerous recommendations for procedures to be followed by the Off Street Parking Authority. They recommended changes which would affect the purchase of property, the construction contracts, the type of elevator equipment to be used, the advertisements for contracts, the functions and duties of the Off Street Parking Authority, and the feasibility of converting the Off Street Parking Authority to a regular division of the city government directly under the City Commission.

This Grand Jury reviewed the recommendations of our predecessors and heard testimony as to the compliance of the Authority with these recommendations. We can report that the Authority has substantially complied with all the procedural recommendations made by our predecessors. For example, the Board of Directors of the Off Street Parking Authority now meets regularly, has established written rules of procedure, has adopted a cost accounting system by facility, has taken steps to insure proper collection and inventory control with the suggested checks and balances, and has adopted procedures to insure the best possible price and contract for the city in the construction of new facilities.

We believe the members of the Off Street Parking Authority of the City of Miami should be congratulated for the efforts which they made in making the procedural changes recommended in the Final Report of the preceding Grand Jury.

CITY OF NORTH MIAMI BEACH

This Grand Jury made an investigation of the City of North Miami Beach following the complaint of several of its citizens. The investigation began as a result of an alleged forgery in 1955 of the signature of Willard E. Purdy to the incorporation documents of Florida Municipal Consultants, Inc. The signatures to this document, in addition to Mr. Purdy's, included a former North Miami Beach City Councilman and a former North Miami Beach Municipal Judge. The documents involved show conclusively that there was no forgery in this matter.

On two other occasions, there were newspaper reports of forgeries to incorporation documents which were linked to North Miami Beach public officials. Again, investigation revealed that no forgery existed.

Many other complaints were made dealing chiefly with the methods of the city in awarding insurance and construction contracts for the city's capital improvement program.

Testimony was taken from more than forty witnesses to determine if wrongdoing existed. The evidence was inadequate to substantiate the charges.

The complainants have tried many remedies to correct the deficiencies they find in their city government. They have instituted civil suits and have prosecuted trial by newspaper. In dismissing the civil suit, Circuit Court Judge John J. Kehoe commented "They alleged a lot of things, and proved nothing." The information provided the press has generally been a rehash of matters previously concluded, or of hearsay and rumor that cannot be corroborated.

There are several areas where changes in procedure could be instituted to the benefit of the city.

The insurance program, a constant source of controversy, appears to require an insurance consultant to properly advise city officials as to the type of coverage required, compliance with specifications, and examination of companies submitting bids to determine the sufficiency of their reserves.

The public records of the City of North Miami Beach must be available to citizens for reasonable scrutiny. This has not been complied with in the past. In a recent complaint, it was necessary for the State Attorney to request city officials to make the records available to interested citizens.

Low bids to sell vehicles to the city have been rejected on the basis that the city is standardizing their equipment. Yet, the city has failed to be consistent by not standardizing all the equipment, including that of the Police Department.

The energy displayed by the citizens in their attempts at reform is commendable. These efforts must, however, be timely and of substance. The mere exercise of the freedom to complain is not sufficient to effect the changes desired. The citizens of North Miami Beach should devote their zeal to the voting booth. This is the arena where their voices will be heard, sharply and clearly.

INTERIM REPORTS

The Grand Jury issued three Interim Reports during the present term.

On December 19, 1961, a report was issued concerning charges that County Commissioner Ben C. McGahey had violated the Home Rule Charter by attempting to improperly influence a county employee. This related to the Building Code requirements which establish testing standards for awning shutters. The Jury found no evidence to substantiate the charges against Commissioner McGahey.

On February 20, 1962, the Jury studied alleged acts of violence connected with the bus drivers strike. The Jury found no conspiracy by union officials to foment violence, but did conclude that union leadership had encouraged harassment.

While there has been some incidence of disorder since that date, there has been no outbreak of violence which would have required further action by this Jury. We believe that the Grand Jury investigation had a salutary effect on this situation.

The Grand Jury made an intensive study of the Cuban Refugee impact on Dade County. The behavior of the Cubans and the response by the citizens of Dade County were both highly commended. This fine relationship appears to be a continuing one and speaks highly for the refugees, the citizens, and the governmental agencies involved. The continued arrival of great numbers of refugees and the intensity arising from the situation in Cuba requires extreme care in the handling of this problem. It is our hope that communities outside of Dade County will recognize their full responsibility in the resettlement program.

PUBLIC SAFETY BUILDING

The Grand Jury inspected the physical facilities operated by the Department of Public Safety. As were our predecessors, we were impressed with the Criminal Investigation Laboratory, the Communications Division and the jail. In some areas, particularly the Radio Communications Division, municipalities have attained a high level of technical accomplishment.

We recommend, however, that all law enforcement agencies utilize these modern scientific facilities and that where duplication exists the facilities be coordinated or consolidated as an aid toward a more efficient administration of justice.

The Rehabilitation and Religious Program being made available to the inmates is a prime factor in returning offenders to society as useful members of the community. This program is worthy of continuance and enlargement.

While the Jury is aware of the budgetary problem that exists in providing funds for this program, monies spent can produce beneficial results. Funds expended to prevent offenders from becoming repeaters are long range investments that will mature as an asset to the community.

The Jury cannot presume to instruct Metropolitan Government officials as to the taxing measures necessary to obtain the funds. The Jury does recommend that the County Commission most seriously consider providing adequate funds for this worthwhile program.

MISCELLANEOUS INVESTIGATIONS

This Grand Jury, as did our predecessors, received numerous complaints which we investigated, but which were not of sufficient community interest to be included in this Final Report.

We have received many complaints which were outside the jurisdiction of the Grand Jury. Frequently, people who are dissatisfied with decisions of courts and juries wish to substitute the Grand Jury for the regular appellate procedures and appeal to the Grand Jury. Others wish to substitute the Grand Jury for our legal system. For example, a South Dade resident has for at least the past ten years conducted a crusade against the operation of a public utility in that area. He presented no evidence that any public official has failed to fulfill his duty. The obvious and realistic approach would have been an action in a court of law by the taxpayer to restrain the alleged improper acts. This citizen, however, has continued to approach the Grand Jury which has neither the authority or jurisdiction to provide a remedy in this matter.

We have received several complaints regarding the sufficiency of legal advertisements. These advertisements are usually inconspicuously placed in the classified sections of the newspapers and concern items such as zoning changes and advertisements for bids on construction projects. In every instance investigated by this Jury, each governmental agency involved did meet the requirements of their charter and the State law. However, we recommend new legislation which would provide more adequate notice to the public. This relates particularly to situations wherein bids are to be made for government contracts.

This Jury has also received the usual complaints from irresponsible persons who plague each Grand Jury with their imagined grievances. The Grand Jury does examine each complaint received and it is unfortunate that time must be spent on this type of complaint. We mention this to inform the people of Dade County that all matters referred to the Grand Jury receive consideration and appropriate attention.

IN APPRECIATION TO THE COURT

We wish to express our sincere appreciation to the Honorable Ray H. Pearson, Circuit Judge, assigned to this Fall Term 1961 Grand Jury. At the time we were impaneled, Judge Pearson gave this Grand Jury a detailed charge as to the scope of our responsibilities, the limitations of our investigations, the operating procedures of a Grand Jury, and competent advice as to the conduct of Grand Jurors. He emphasized his availability at all times to the Grand Jury or to any individual Juror. We found the Honorable Ray H. Pearson at all times considerate, courteous, charming, with an excellent sense of humor, but always dignified and maintaining a decorum in keeping with the highest tradition of his position.

E. B. LEATHERMAN - CLERK OF THE CIRCUIT COURT

The Honorable E. B. Leatherman, Clerk of the Circuit Court, and his deputies have been cooperative and helpful to this Grand Jury, and we wish to express our appreciation to them.

ADMINISTRATIVE ASSISTANT - BAILIFF

At each meeting the Grand Jurors were welcomed by Bailiff W. Rufus Holzbaur and Administrative Assistant Eleanor M. Robinson. We were fortunate to have an Administrative Assistant who was so well trained and so capable, thus coordinating and expediting our work tremendously. We feel that the Administrative Assistant and Bailiff take great pride in their work and are extremely dedicated.

RICHARD E. GERSTEIN - STATE ATTORNEY

Legal guidance in our endeavors was most ably provided by Richard E. Gerstein, State Attorney, and his excellent staff. We had many occasions to ask the State Attorney's office to assist in an investigation by bringing various witnesses to the Grand Jury for interrogation. We were very much impressed by the fact that in every case our witnesses were present and ready to testify as we needed them. We are well aware that this splendid cooperation could only come from a superb organization under intelligent and skillful leadership.

Respectfully submitted,

Clifford A. Malcolm

Clifford A. Malcolm, Foreman
Dade County Grand Jury
Fall Term 1961

Attest:

Richard B. Roberts, III

Richard B. Roberts, III
Clerk

DATE: May 8, 1962