

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

FALL TERM A. D. 1963

FINAL REPORT OF THE GRAND JURY

Filed

May 12, 1964

Circuit Judge Presiding

LUCIEN C. PROBY, JR.

Officers and Members of the Grand Jury

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GEORGE J. LAVERY

F. BOICE MILLER

PAULK REEVES (Excused)

HOWARD A. SHIELDS

JOAN BEE STANLEY

LEMAR H. STEIN

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TO THE HONORABLE LUCIEN C. PROBY, JR., CIRCUIT JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

The secrecy under which a Grand Jury operates has the beneficial result of preventing the testimony of witnesses from being made public and has the detrimental result in many instances of the public never knowing of actions taken by the Grand Jury.

For example, in some investigations, the charges are not substantiated by the evidence. In others, while there may be an impropriety, we are limited, under the law, as to the use of critical language unless an indictment issues. In still other cases, while an injustice may exist, the proper forum may be the Courts or an administrative hearing.

During this session, we made a preliminary examination of the manner in which municipal pension funds are administered. We found no basis for further investigation.

We also conducted an investigation into charges that a municipal police officer of Florida City had threatened and intimidated a voter in the free exercise of his ballot. There was insufficient evidence upon which to base an indictment, but we found the municipality lax in that its ordinances did not prohibit employees, such as police officers, from directly participating and campaigning in elections. We recommend the enactment of ordinances controlling the conduct of public employees in election campaigns.

A complaint was also made by a citizen of Hialeah Gardens alleging several violations of the election law. This involved the signing of petitions, the eligibility of elected officials to hold office, and the holding of an election to abolish the Town. Testimony was taken and it was determined that no further action

was necessary on the part of the Grand Jury.

An anonymous letter accusing City of Miami officials of being party to bolita payoffs was investigated at the request of the City of Miami Commission. While the Grand Jury does not normally investigate the contents of anonymous letters, the request of the Commission was honored. No evidence was available to the Grand Jury to link the Miami Police Department or city officials to bolita payoffs. Anonymous letters rarely provide information leading to the uncovering of law violations.

These were several of the matters considered by the Grand Jury which normally receive little or no comment in the Report of the Grand Jury. We consider it important that citizens recognize the availability of the Grand Jury for their grievances. Every letter received by the Grand Jury is given thoughtful consideration. We deem the six month term spent here as a public trust. Citizens should have confidence in Grand Juries and willingly make available all knowledge of wrongdoing. The success of each Grand Jury can be measured in part by the confidence and cooperation extended to it by our citizens.

Our service with the Grand Jury during the past six months has further impressed us with the extremely important role that this body plays in the life of our community. The Grand Jury when properly used can be a great instrument for good government.

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CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
RICHARD FLOYD DeVOE and RALPH McGRUDER	Rape	True Bill
HARRY LEE BALLARD and SAM COLEY	Rape	True Bill
WILLIAM MANN BILLITER, JAMES HENDRIX, and LEON LYNN MAY	Rape	True Bill
RAY MILLER PRESTON	Rape	No True Bill
ELIJAH RICHARDSON	Rape	True Bill
RICHARD DAVID FRIES	Rape	True Bill
WILLIE JAMES WOOLFOLK	First Degree Murder	True Bill
FEDERICO TORREZ GONEZALEZ, JR. also known as FRED GONZALEZ	First Degree Murder	True Bill
BERNARDO PEDRO and ENRIQUE CORREA	Rape	True Bill
MACK CHARLES WATSON, also known as MACK CHARLES WATSON, JR. WILLIAM BAILEY and JIMMIE WILSON	Rape (Two Counts)	True Bill
LEROY MIMS, JR.	Rape	No True Bill
ALFRED RICHARD ST. LAURENT	Rape	True Bill
DAVID CHARLES BLISS and SHIRLEY MAE LEWIS	First Degree Murder (Two Counts)	True Bill
HERBERT LEE EVANS	First Degree Murder	True Bill
JAMES CURRY	Rape	True Bill
FLOYD PERKINS, JR.	Rape	True Bill
ALBERT MERVIN COLLIE, HARRY HILL, WILBERT CHARLES JACKSON, and TYRONE PHILLIP MOSS	Rape	True Bill
OTIS JOHNSON	Second Degree Murder	True Bill
RALPH N. MILLS	Rape	No True Bill
ALTON TROUPS	Second Degree Murder	True Bill
HENRY GEORGE NEWMAN, also known as GEORGE F. NEWMAN	First Degree Murder	True Bill
PATRICK PETER DEVLIN	Second Degree Murder	True Bill
JOHN WILLIAM PRUNTY	Sodomy	No True Bill

POSSESSION OF STOLEN JEWELRY

The Grand Jury conducted an investigation concerning the possession of a stolen gold coin bracelet. The bracelet, among other jewelry, was stolen on November 7, 1962. No arrests were made since that date. On January 11, 1964, the bracelet in question was observed by the owner on the wrist of the wife of the Chief of Detectives of the Sheriff's Office.

After hearing the testimony of all the parties involved, the Grand Jury found insufficient evidence to warrant criminal charges. The Grand Jury is dissatisfied, however, with the manner in which the Sheriff's Office investigated this matter when it was brought to their attention.

The facts are as follows:

The owner of the bracelet attended a local race track and there noticed the bracelet being worn by the Chief of Detectives' wife. Upon being notified, the Sheriff made inquiry as to the circumstances surrounding possession of the bracelet. The Chief of Detectives informed the Sheriff that the bracelet was given to his wife by an attorney who specializes in criminal law. The attorney stated he had been given the bracelet by a client who owned a notorious bistro. This was confirmed by the nightclub owner who stated he had found the bracelet in his nightclub and when no one claimed it, he had given it as a gift to his attorney. A positive identification of the bracelet was made by the true owner.

The Sheriff's Office investigation of the witnesses was incomplete. No formal statement was taken from the attorney or his client, the operator of the nightclub. The investigating

officers permitted a statement to be prepared by the attorney and client and delivered to the Sheriff's Office the following day. At no time did anyone question the Chief of Detectives' wife, nor was any statement taken from her.

The Grand Jury will not speculate as to what evidence might have been obtained had a more prompt and efficient investigation, free of irregularities, been conducted immediately. Surely the public has a right to expect a thorough and complete investigation, by proper authorities, when a high ranking police official's wife is in possession of stolen property.



### STATE ROAD BUILDING PROGRAM

An evaluation of the State road building program in Dade County leads to the conclusion that we are both late and little in our efforts. A combination of causes have set up these road-blocks. Old-fashioned sectional politics is one of the problems. Inability to obtain rights of way for construction is another consideration. Archaic laws also prevent Dade from receiving its fair share of some of the road funds. Much has been said and written about the local and state problems in road building. The subject is a complex one and perhaps because of this it has never received the attention it deserves from our citizens.

The control over the distribution of the funds derived from the seven cent state gasoline tax lies exclusively with a Board of five men appointed by the Governor. Four of the seven cents is devoted to primary roads and three cents to secondary roads. Each of the persons on the Board represents a particular district and each apportions primary road funds on the basis of need to the counties within his district and at his discretion. Road Board members are political appointees and serve at the will of the Governor. It is considered an acknowledged fact of life that accelerated road programs were accomplished in Dade County during administrations of Governors who gained maximum voter support from Dade County voters.

The cost of obtaining rights of way is a county responsibility. With land valuation extremely high in Dade, this becomes a particularly burdensome financial obligation. The County has made available secondary road funds as well as a bond issue to provide for rights of way.

Secondary road monies (3¢ gasoline tax) unlike primary funds are presumably controlled by the counties. They are distributed to counties based on a 1931 legislative formula which in no way represents a true picture of present county needs. Ours is one of the counties receiving an unfair proportion of the tax. We face the further difficulty of constant delays in getting approval of plans from Tallahassee. There presently exists a backlog of six million dollars representing allocated secondary road projects for Dade County awaiting administrative action by the State Road Department.

A cross section of expert witnesses appeared before the Grand Jury. These included former State Road Board Member William Singer, present Road Board Member John Monahan, Clarence E. Davidson, District Engineer, State Road Board, State Senator W. C. Herrell, County Manager Irving G. McNayr, and road contractor A. J. Capeletti.

We have several suggestions to offer:

1. In the area of politics in road building, we see no value in the State Road Board being a body based purely on political patronage. They possess tremendous authority and it is only by chance that we get competent, knowledgeable persons appointed to serve. It would make more sense for professional administrators versed in the technicalities of road construction to comprise this agency. Lacking this change, members of the Road Board should be appointed for staggered terms so that there will be continuity in office.

As to the miles of construction being commensurate with the votes produced, we point out that the ugly scars of sectionalism covering the body of our State are easily removable by leaders who will truly build roads and provide other services based on need not votes.

2. The rising cost of rights of way is of particular significance in Dade County. Several proposals have been offered to aid the counties in this responsibility but none have received serious consideration by the Legislature. It also has been suggested that the State assume the full burden of paying for rights of way. With land values increasing throughout the State, and rural areas becoming urbanized, this problem will soon be a state-wide crisis rather than merely a metropolitan center problem.

The State Legislature passed a law in 1963 creating a revolving fund from which counties could borrow for rights of way. Unfortunately, the limitations of borrowing are such that only the smaller sized counties are benefited. We suggest that the revolving fund be amended to provide adequate funds as well as increase the amount which counties can borrow.

3. Secondary road funds are unequally distributed because the criteria used in the distribution formula is outdated. The Legislature chooses not to alter the formula because a change would result in less funds for the counties represented by a majority of the legislators. A constitutional amendment would be necessary to alter the formula. Again, we can think of no better evidence to show lack of sectional animosity than for the Legislature to support an amendment giving counties the fair share to which they are entitled.

In regard to administrative delays concerning the implementation of secondary road programs, we would hope for more forceful representation on the part of our county officials in dealing with their Road Board counterparts.

Dade County should employ a career liaison man, responsible to the County Manager, whose specific duties would be to

implement and expedite our road program. In addition, it might be productive for the Road Board to relinquish all or some part of its control over the approval of plans submitted by the County. Where funds are available and the plans are completed, it is unfortunate that red tape prevents the construction of necessary roads.

#### CONCLUSION

Road systems throughout the nation are waging a retreating battle against the ever multiplying vehicles. In some major communities, traffic patterns have become crawling bottlenecks with no solution in sight. There is yet time in Dade County and Florida to avoid this fate. We need a dynamic program geared to meet so monumental a challenge. We would suggest consideration of a Dade County Road Authority to plan and implement such a program. We understand no additional legislation would be necessary to form such authority.

On the level of State finances, a constitutional amendment has been suggested to eliminate pay as you go financing. This would permit the state to participate in a borrowing program based on one cent of the four cent primary gasoline tax.

We oppose this form of deficit financing and we do not conclude that this is the ultimate answer. We do conclude that action is urgently needed.

DELAY IN PROVIDING JUDICIAL HEARINGS FOR PRISONERS

One of the problems we have had with us continuously in the field of law enforcement is the delay in providing a judicial hearing for those persons incarcerated in jail who cannot provide bail. This problem seems to be concentrated among persons charged with minor offenses such as vagrancy and it appears to originate in such cases filed in the Justice of the Peace Courts. A check of the records of one of the Justice of the Peace Courts for a period of one month showed citizens in jail an average of 7½ days before receiving a preliminary hearing.

In cases where the Justice of the Peace determines the person should be bound over to Criminal Court for a trial on the vagrancy charge, the prisoner faces additional delays until his file is transferred to the Clerk of the Criminal Court and he is placed on the Court Calendar for arraignment and trial. In some instances three weeks has elapsed before a vagrancy charge is disposed of completely. In selecting vagrancy cases as an example to display this problem, we are not overlooking the same situation as it occurs with more serious crimes. The problem is accentuated in vagrancy which is a relatively minor offense, requiring generally but one prosecuting witness and the penalty usually is considerably less than the time served in waiting for trial.

To aid us in seeking a solution to this problem, we invited testimony from Justices of the Peace Ralph B. Ferguson, Jr., Ruth L. Sutton, Sylvester P. Adair, Hugh F. DuVal, jr., Jason M. Berkman, Sheriff T. A. Buchanan, Public Defender Robert L. Koeppel, Office Manager, State Attorney's Office Wana Sampson, and Chairman, Criminal Courts Sub-Committee, Dade County Bar Association Harry W. Prebish.

All of the witnesses showed an awareness and concern for the problem. Several conclusions are obvious.

1. Where a simple vagrancy case occurs, arrangements should be made for the arresting officer to file directly with the State Attorney rather than require a preliminary hearing before a Justice of the Peace. We recognize the Justice of the Peace offices are more geographically accessible to police officers and require less time to file a case. However, this is a police administrative problem and should not cause a citizen to be unduly incarcerated.

2. Where a preliminary hearing before a Justice of the Peace is deemed necessary, the arresting officer should file with the Justice of the Peace immediately upon placing the defendant in County Jail. Failure to immediately file the case prevents the Justice of the Peace from setting a preliminary hearing. The delay on the part of the arresting officer is due to many causes. An arrest made on a week-end or at the end of a tour of duty, or a combination of both, may result in several days delay before the charge is filed. The alternative we face is a person in jail with no opportunity for a Court to consider his charge until the officer finds time to file the case. It has been suggested in simple vagrancy cases where the police officer is the only prosecuting witness that the Sheriff's Office and the Justice of the Peace make arrangement for the defendant to be present for a preliminary hearing at the time the police officer files the case. This would prevent unnecessary detention and satisfy the Florida Statutes which require a defendant to be brought before a magistrate 'without unnecessary delay.'

3. There has been considerable debate as to the need

for continuation of the Justice of the Peace system. We do not wish to enter this controversy at this time. We do wish to point out the need for a more adequate system of Committing Magistrates. If the present Justice of the Peace system is to continue, it should operate on a formal 24 hour, 7 day week schedule so that at all times one of the Justices of the Peace is sitting as a magistrate and is available for a preliminary hearing.

4. There is a delay of several days in the delivery of files bound over from the Justice of the Peace for trial in the Criminal Court. Where the defendant has not been able to provide bail, this causes another undue delay in obtaining trial. This arises not from laxity but from lack of personnel. If we are to continue our present method of preliminary hearings, we must provide sufficient clerical assistance to immediately process these cases.

5. Other suggestions have been offered which we pass on for consideration without comment.

- (a) Permit Justices of the Peace to accept "Guilty" pleas in vagrancy and disorderly conduct cases.
- (b) Eliminate excessive paper work such as the now unnecessary cost bills and Monthly Cash Report required of Justice of the Peace court clerks by State and County law.
- (c) The Justice of the Peace should submit a summary of each case bound over to facilitate the filing of cases.
- (d) A court reporter should prepare a transcript of each case bound over to facilitate the filing of cases.

- (e) Where the victim is hospitalized and defendant is in jail, effort should be made to hold a hearing with the available witnesses, or if necessary, in the hospital.
- (f) The Public Defender, as the only agency in a position to represent indigent defendants, should be responsible for instituting the proper legal procedures to require prompt judicial hearings.

This problem is of a serious nature. Efforts are being made by our law enforcement agencies to improve the system. We are recommending to the succeeding Grand Jury that they review this situation during their term. We also recommend to all groups and agencies concerned with the administration of justice that they too familiarize themselves with this problem. A maxim which guides our legal profession, "Equal Justice Under the Law" has a hollow ring for those unduly incarcerated for lack of bail.



UNLAWFUL ATTEMPT TO INFLUENCE ELECTION

Prior to the December 10th, 1963 special election for Metropolitan Sheriff, a charge was made by the Republican Party nominee Fred A. Phillips that he had been offered a sum of money by John F. Beatty to withdraw as a candidate for that office. The Jury investigated the allegations to determine the existence of any violation of the Florida Election Laws. Testimony was heard by the Grand Jury from Phillips and other witnesses in support of the charges. Beatty also voluntarily testified after signing a Waiver of Immunity. The Jury concluded there was insufficient evidence upon which to base an indictment.

We find a significant portion of the business conducted by the Grand Jury is either directly related to political elections or has an indirect relationship. It would appear that in many situations the heat of election campaigning sometimes diminishes the sound judgment of otherwise reputable citizens. We would suggest to candidates, as well as their supporters, that the ethics and decency expected in every day exchanges be extended to include political relationships. There is no reason for a jungle code to prevail merely because one seeks to hold public office.

INTERIM REPORT  
TAXI DRIVER LICENSES-CITY OF MIAMI

On December 17, 1963, the Grand Jury issued an Interim Report concerning the failure of the City of Miami to enforce an ordinance requiring applicants for taxi driver licenses to be citizens of the United States. Over one hundred licenses had been granted refugee Cubans who could not comply with the ordinance. In the earlier report, the Grand Jury was critical of the Miami City Commission for its lack of action in the matter.

In reviewing the problem to date, our earlier conclusion is unchanged. We consider the concern shown for the employment problems of Cuban refugees to be commendable, but its laudable purpose is somewhat tarnished when it becomes necessary for the city officials to avoid observing the law.

For years the requirement for citizenship has been ignored and both the police and city officials deny knowledge as to how this policy was established. When it was first brought to the attention of the City Commission by complaining taxi cab drivers, the Commission permitted those in violation to continue driving for six months during which time the entire problem would be re-evaluated. No further applications were to be permitted in violation of the ordinance.

After the Grand Jury Interim Report, the Commission passed Resolution No. 35345 which again declared the intent of the Commission to enforce the ordinance. It also permitted non citizen license holders (prior to November 8, 1963) to continue driving cabs. The City Attorney advised the Commission that "they would be in a very bad position" in Court should one of the non citizens deprived of his license institute litigation.

In the absence of a Court ruling, we cannot refute the legal opinion of the City Attorney although we have never noticed a reluctance on the part of the Miami City Commission to litigate for what they considered fair and proper.

We repeat what was said in the December 17th report:

"Governing bodies cannot demand a respect for the law when they themselves ignore the law. Where a law has become obsolete and no longer serves the people, the law makers must repeal or amend the law rather than find a way to circumvent it."

#### ACKNOWLEDGMENTS

We conclude this report with a deep and sincere expression of thanks to the Honorable Lucien C. Proby, Jr., Circuit Judge. We appreciate his advice and counsel which has been of immeasurable assistance. At all times the Honorable Lucien C. Proby, Jr. was considerate and dignified, maintaining the highest standard of judicial demeanor.

The Honorable E. B. Leatherman, Clerk of the Circuit Court, and his staff have been most cooperative and diligent in assisting this Grand Jury.

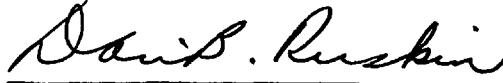
Eleanor M. Robinson, our Administrative Assistant, has been of tremendous assistance to us. Her cooperation and willingness, plus her efficiency and ability have lightened our administrative duties.

Our Bailiff, W. Rufus Holzbour, has maintained order and decorum in the Grand Jury quarters for which we are thankful.

State Attorney Richard E. Gerstein and his staff, including Seymour Gelber, Roy Lee Jones, George Eadie Orr, and Arthur E. Huttoe have provided legal counsel which has made possible our proper functioning. We are particularly impressed with the sense of fairness displayed by the State Attorney. Mr. Gerstein's main concern is to provide justice for all parties. We consider that the function of a prosecuting agency is to protect all of our citizens equally and we are impressed that the State Attorney and his staff have diligently sought to present all sides of an issue


so that we might reach a fair conclusion. We are proud to have worked with the State Attorney and his Assistants.

Respectfully submitted,



Dan B. Ruskin, Foreman  
Dade County Grand Jury  
Fall Term 1963

Attest:

  
Julius A. Greenhouse  
Clerk

Date: May 12, 1964