

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

FALL TERM A. D. 1970

FINAL REPORT OF THE GRAND JURY

Filed

May 11, 1971

Circuit Judge Presiding

RAYMOND G. NATHAN

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CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
EUGENE BUTLER	Rape	True Bill
EUGENE BUTLER	Rape	True Bill
ARIEL SAAVEDRA	First Degree Murder	True Bill
CHARLES EDWARD DONALDSON	First Degree Murder	True Bill
FREDDIE DEE ARCHIE	First Degree Murder	True Bill
GILBERT PAUL LENARD	Rape	True Bill
ARTIE COLEY	Rape	True Bill
JOSE MANUEL GONZALEZ	First Degree Murder	True Bill
FRED FRANK FERRARA	First Degree Murder	True Bill
CURTIS CHARLES VON HORN	Rape	True Bill
BOBBY GENE BARFIELD	First Degree Murder	True Bill
DANIEL FESHBACH	Unlawful Sale of Obscene Materials	True Bill
ATHENEUM, INC. and HOWARD FERMAN DAVIS	Unlawful Sale of Obscene Materials	True Bill
THE FLORIDA LITERARY DISTRIBUTING CORPORATION, INC. and RONALD PARTIN	Unlawful Sale of Obscene Materials	True Bill
LARRY DARNELL MOSS	Rape	No True Bill
DOMINGO MARTINEZ TROYA	First Degree Murder	True Bill
BILLIE RAY LOGAN	Assault with Intent to Commit Rape	True Bill
WILLIE EDWARD DOZIER	Rape	True Bill
DAVID CANADY and JAMES GIBSON	First Degree Murder	True Bill
ANTHONY STANLEY and ROBERT LEE CONEY	First Degree Murder	No True Bill
DESHA K. DODSON	Rape	True Bill
ALEXANDER WILLIAMS	Assault with Intent to Commit Rape	True Bill

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
FIGURE ART MART, INC. and HELEN STRONG	Unlawful Sale of Obscene Materials	True Bill
ARTISTIC BOOKS, INC., MIGUEL QUINTANA AYALA and EDGAR SHEPHERD, JR.	Unlawful Sale of Obscene Materials	True Bill
BRANDIS BOOKS, INC. and VELMA LEVIN	Unlawful Sale of Obscene Materials	True Bill
LEROY WALKER, JR.	Rape	True Bill
JOE LOUIS ROBINSON	Assault with Intent to Commit Rape	True Bill
JOHNSON E. ROBINSON and JAMES D. SMITH	First Degree Murder	True Bill
JEROME PRESTON and WILLIE SANDS, JR.	Rape	True Bill
PARKER B. HALL	First Degree Murder	True Bill
JOHNNIE LEE JONES	First Degree Murder	True Bill
SAMUEL MILTON HOWELL	First Degree Murder	True Bill
KENNETH HODGE	Second Degree Murder	True Bill
RAY MYCHEL FENDER	Rape	True Bill
ROBERT LEE JONES	Rape	True Bill
SALONE HOLMES	First Degree Murder	True Bill
ROBERT MICHAEL GIFFORD	First Degree Murder (Two Counts)	True Bill
HAROLD WESLEY MYERS	First Degree Murder	True Bill
BILLY DEAN MASTIN and BRUCE STOVER	Rape	True Bill
REBECCA JOYCE FEINSTEIN	First Degree Murder	True Bill
DELMA DAVIS	Rape	True Bill

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
IVORY SIMMONS, EMMA TROY, and LORETTA BANNISTER	First Degree Murder	True Bill
JAMES B. RICHARDSON and UNITED THEATRES OF FLORIDA, INC., doing business as UNITED MINI-ADULT THEATRE	Unlawful Showing of Obscene Motion Pictures	True Bill
JAMES B. RICHARDSON and UNITED THEATRES OF FLORIDA, INC., doing business as UNITED MINI-ADULT THEATRE	Unlawful Showing of Obscene Motion Pictures	True Bill
ROY L. LAWSON	First Degree Murder	True Bill
OSCAR HERNANDEZ	First Degree Murder	True Bill
KIM PHARRELL BROWN	First Degree Murder	True Bill
JESSE JAMES JACKSON	First Degree Murder	True Bill
DAVID C. WAUD	Manslaughter	True Bill

THE DEPLORABLE DADE COUNTY JAIL

This Grand Jury's investigation of the County's detention facilities was triggered by the brutal in-jail slaying of a 17 year old youth, Cloyce Cook. Young Cook, the son of a clergyman, was charged with auto theft; he was a resident of South Carolina and had no prior criminal record. As the consequence of a curious classification system, apparently conceived by so-called federal prison experts, Cook was placed in a cell with some of the most hardened and violent inmates in the jail. A total of 19 prisoners shared this cell. On the evening of his first day of confinement, Cook became involved in an altercation with two of his cellmates when he refused to perform duties assigned to him by the cell boss - another prisoner, not a detention officer. Jail guards were aware of this altercation, but did nothing about it. Early the next morning Cook was strangled to death.

This needless tragedy sparked our investigation which disclosed:

1. 982 prisoners were occupying a facility designed to accommodate 500.
2. Many of these prisoners, including the men charged with Cook's murder, had been tried, convicted and sentenced and were awaiting transfer to Raiford.
3. Approximately 20% of the inmates were charged with use or sale of marijuana.
4. Many of the guards had been transferred from the Department of Public Safety to jail duty as punishment - sort of a send them to Siberia program.
5. Meal service was inadequate - rarely were hot meals even warm.

6. No recreational program existed. Prisoners simply vegetated in their cells.

7. The design of the building makes proper surveillance of the prisoners virtually impossible.

8. Supervision of guards assigned to patrol the corridors was inadequate. Guards did not, in fact, patrol as frequently and as diligently as they had been ordered to do.

9. Four floors of the building remain uncompleted and therefore unused.

10. Delays in bringing prisoners to trial, particularly those processed through the Justice of the Peace Courts, contributed to the overcrowding.

Since the beginning of this Jury's investigation, substantial steps have been taken to improve jail conditions. For example:

1. Circuit Judge James W. Kehoe ordered the jail population to be reduced, in a series of steps, and to be maintained at a figure not to exceed 600. Through the cooperation of Criminal Court Judges Morphonious, Sepe and Goodman and the State Attorney's Office, night and week-end court sessions were held. Effective plea bargaining techniques were utilized. Thus, several hundred pending cases were disposed of by this extra, overtime effort.

2. Jail Director Sandstrom arranged a more expeditious means of transferring prisoners to Raiford.

3. County Manager Goode sought and obtained the cooperation of municipal officials to arrange for temporary utilization of several city jail facilities.

4. County Manager Goode and Jail Director Sandstrom arranged

for the increased use of the county stockade facilities for drug offenders.

5. Meal service techniques and equipment have been improved.

6. An Administrative Order, approved by the Metro Commission, preventing the use of jail guard duty as Siberia, has been entered. An effective start toward granting career status to detention officers has been made.

7. A plan to create and implement an effective committing magistrate system has been presented to the State Legislature.

8. An application for federal funds to complete the unused four floors of the jail and to expand the stockade facility has been made.

9. A plan for the creation of a regional state prison system has been presented to the State Legislature.

10. A long-range plan to create a modern detention complex is being formulated. This complex would include a regional state prison, a county detention facility, a half-way house, and an addiction treatment center.

While County Manager Goode and Jail Director Sandstrom deserve credit for the start that has been made, much remains to be done before we, as a community, can be assured that we are treating those charged with crimes in other than a barbaric manner.

1. The Metro Commission should provide whatever funds are necessary to supplement available federal funds for the purpose of completing the four floors of our existing jail and for expanding our stockade facility.

2. The State Legislature should authorize and provide immediate

funds for the creation of a region state prison program. One such regional prison must be located in Dade County.

3. Qualifications and salaries for detention officers should be raised and a meaningful training program should be immediately instituted.

4. A new classification system must be devised and implemented to avoid the mixing of prisoners who have demonstrated a potential for aggressive and violent behavior with more passive types. Steps must be taken to eliminate the "pecking order" system which allows stronger and more aggressive prisoners to run the cells and ultimately the jail.

5. Work on the long-range plans must continue as an emergent matter. For too long has our community been praised for its plans and damned for their implementation.

6. Citizens must remain aroused and not await another tragedy to stir our attention. We must recognize that these improvements will cost money. We citizens must support those public officials who seek to improve this atrocious detention system. We must remember "as ye treat the least of these"

DADE COUNTY AIRPORT GARAGE FIASCO

The manner in which certain Dade County Airport garage buildings were constructed was a travesty from which taxpayers, bondholders and the general public will draw neither humor or comfort.

We have taken testimony from the Director, the Deputy Director and the General Counsel of the Dade County Port Authority, as well as from several consulting engineers. In addition, we examined the various documents and correspondence outlining the role and responsibilities of each of the parties.

We do not pretend an expertise as construction engineers, but the cracked main supporting columns are ample evidence of the inadequacy of the original design by Rader and Associates, the lack of proper supervision by Consulting Engineers Howard, Needles, Tammen and Bergendoff, and finally the careless workmanship by Gust K. Newberg Construction Company. The responsibility should also be shared by Alan C. Stewart because of his failure to direct the proper completion of the project in his capacity as Port Authority Director.

We look with question on the procedure that required the design and consulting engineers to request the Port Authority to employ additional engineering assistance to correct the many irregularities. We further wonder why it became necessary for the design engineers, Rader & Associates, to hire this same individual to correct the design errors.

To have permitted such a monumental mishap is a sad commentary on governmental operations. The citizens of Dade County will ultimately suffer the lack of adequate parking facilities at our already overcrowded airport.

We commend the General Counsel of the Port Authority, Mr. William W. Gibbs, for his continued efforts to pursue every legal remedy to assess and recover appropriate damages from those at fault.

DADE COUNTY SCHOOL BOARD

The investigation of the School Board was initiated upon complaints by citizens that members of the Board and their Attorney had violated the Sunshine Law in these respects:

1. The elections of the Chairman and Vice Chairman had been conducted through the use of secret written ballots.
2. Certain labor-management negotiations had been held in secret.
3. An informal secret meeting for the purpose of selecting the Superintendent had been held at the Ocean Reef Club on Key Largo in October, 1967.

Pursuant to these complaints, the Jury interrogated a large number of witnesses, including all members of the present Board, two former Board members, the Board Attorney, and several teachers.

With respect to the above listed complaints, the Jury finds as follows:

1. The School Board erred in utilizing secret ballots, However, they did so upon advice of counsel and upon challenge being made, corrected their errors. We, therefore, believe that criminal intent was not established.
2. With respect to the labor-management negotiations, we find that the admirable refusal of Board Member Crutcher Harrison to participate, frustrated a request by certain union members to negotiate secretly.
3. No reasonable excuse for holding an out-of-county meeting in Key Largo exists. However, the meeting was held prior to recent judicial decisions setting forth a more stringent interpretation of the Sunshine Law than had previously existed.

Some disagreement exists among members of this Jury as to the

wisdom of prohibiting executive sessions for certain limited purposes; however, the law is clear. The Legislature by enacting and the Courts by interpreting the "Sunshine Law" have buttressed the peoples' right to know. We trust that in the future the School Board and all other agencies will comply in good faith with the letter and the spirit of this law. The limitations and inconveniences placed on even well meaning public servants are more than outweighed by the benefits of providing for a more informed electorate.

This Jury expanded its initial investigation into the area of general operations of the school system and, as a consequence, makes the following findings and recommendations:

1. The school system annual budget amounts to \$270,000,000 per year. By law, the Legislative Audit Bureau of the State of Florida is charged with the responsibility of conducting an audit. In practice, this audit is not made until three years after the fiscal year. With this delay, the audit is more historical than practical. We recommend that the State Legislature provide funds to increase the staff of the Audit Bureau sufficiently so that the School Board audit can be conducted immediately after the close of each fiscal year. If the Legislature fails in assuming this responsibility, then the School Board should retain independent auditors so that this vital function can be accomplished.

2. Because School Board members are now required to serve on the Tax Equalization Board, we recommend that the Tax Assessor, in cooperation with the school administration, prepare and give a course on the principles of ad valorem taxation to School Board members.

3. The present system of awarding architectural contracts is fraught with the possibility of favoritism and excessive fees. This system must be changed. Testimony indicated that a study was being conducted to find

a fairer and more economical system. We recommend that our successors make inquiry into the results and implementation of this study.

4. We recommend that each school's test scores be made public so that the students and parents will be able to compare each school's performance with the others. We further recommend that each school's drop-out rate be published. Challenging and innovative teachers and administrators can thus be given public recognition and inferior teachers and administrators will no longer enjoy anonymity.

5. A substantial amount of School Board members' time is wasted at each meeting by the approval of a myriad of details that could better be handled by the administration. This could be remedied, in part, by changes in the law providing for increased purchasing authority by the Superintendent. As a practical matter, he has that authority now for the Board cannot intelligently vote on the multitude of minutiae now presented to it. The time now spent on necessarily uninformed approval could be saved.

6. Some consideration has been given by the Board to the abolition of the School Security Force and the transfer of this responsibility to the Department of Public Safety. We strongly oppose this plan. We believe Security Director John W. Tyler has assembled a highly qualified force especially trained in the handling of school security problems, and we further believe that this force should be given more authority - not abolished.

7. The Grand Jury recommends that the Legislature study the feasibility of decentralizing our Dade County School System.

8. A stronger emphasis on vocational education should be made in order to combat the high drop-out rate.

The Grand Jury would especially like to thank former Board Members Theodore Slack, Jr. and Jack D. Gordon for their advice, and also to thank the present Board Members for their cooperation.

We further wish to state that Dr. Edward L. Whigham, the Superintendent, was an informed and forthright witness. He demonstrated a thorough grasp of school problems. We believe that the people of this community are extremely well served by him.

JUSTICES OF THE PEACE

The Spring Term 1970 Grand Jury, our immediate predecessors, conducted an investigation into the operation of the Justices of the Peace in Dade County. By its Final Report, published on November 10, 1970, it found in part:

"That Arrest Warrants have been issued in numerous occasions when the person seeking the warrant did not present a written complaint under oath before the Justice of the Peace and the Justice of the Peace did not make a finding of probable cause and sign such warrant, but in lieu thereof a facsimile of his signature was merely affixed thereto by employees of his office. This brand of rubber stamp justice has resulted in the issuance of Arrest Warrants without an independent finding of probable cause by the Justice of the Peace, an essential requisite to constitutional guarantees of due process and individual liberty."

Despite this finding and despite the provisions of Section 901.02, Florida Statutes, the Justices of the Peace for the 1st and 2nd Districts have continued this reprehensible rubber stamp practice which has resulted in the unwholesome and, we believe, unlawful delegation of authority to clerks. We respectfully recommend that Governor Askew take steps to insure the discontinuance of this practice.

If the Justice of the Peace system is to continue, and this Jury feels it is archaic and has outlived its usefulness, the Justices should serve on a full-time basis, and District 1 should be divided. This District is much too large for one person to properly administer. To permit quasi-judicial officials to engage in private law practice, particularly in the field of criminal law, offends the basic concept of fairness and impartiality and creates all manner of potential conflicts of interest.

This Jury also deplores the haphazard practices relating to the photographing and fingerprinting of persons charged with offenses before the Justices of the Peace. Not every participant in a neighborhood squabble need suffer this indignity, but all persons charged

with serious crimes should. In at least some of the districts whether this procedure is utilized apparently depends on the whim of the Justice.

We recommend that a committing magistrate system, providing for complete preliminary hearings, be created, but we oppose the use of Justices of the Peace as committing magistrates. We believe the committing magistrates should be located in strategic areas in the County. They should be full time Judges prohibited from the practice of law. The glaring abuses in the recent bond reduction cases point out the necessity for establishing a new system.

We trust that in any proposed revision of the judicial article of our Constitution by the Legislature, careful study will be given to the question of whether Justices of the Peace should be retained, and if their retention be determined advisable to handle minor civil and/or criminal matters, then they should certainly be made full-time offices with appropriate compensation.

MIAMI POLICE DEPARTMENT

We have conducted an investigation of an alleged breakdown in morale in the Miami Police Department. Our primary concern was whether the level of morale was affecting the performance of the Department.

In pursuance of this investigation, we interrogated in excess of 25 witnesses, including the Chief of Police and virtually all of the Majors and Captains in the Department. All of the witnesses, except the Chief, had served during the administration of Chief Headley and thus were in a position to draw valid comparisons.

We recognize that "morale" is a highly individualized situation, colored by the reaction of the person involved to his assignment, promotion prospects, interest in his work, etc. We also recognize that any organization consisting of two or more people will have some members within it who are discontent or critical of the operation.

We do find that the Miami Police Department has a problem which can be described as morale or attitude. We do not think the problem to be insurmountable. The witnesses who testified to the existence of the problem were almost unanimous in their praise of Chief Bernard Garmire as an excellent administrator.

The primary basis of complaint appears to be the failure of Chief Garmire to communicate to his high ranking officers the reasons behind certain innovative changes which he has made. In turn, there is a failure of the "brass" to communicate to the rank and file patrolmen the basis for new and sometimes controversial techniques and practices. It is not unusual to find policemen resistant to change. Most of us resent being told that the time-honored way of doing things may no longer be feasible. We believe that if more effort was made to explain

the reasons behind change and what is hoped to be accomplished, there would be less resistance.

Chief Garmire inherited a difficult situation. Walter Headley was the only Chief of Police that most Miami citizens and police officers knew. He had become a legend and his death enhanced that legend. Any man succeeding him was bound to be the subject of critical survey. Under those conditions, it is urgent that Chief Garmire make special effort to establish better lines of communication with his men lest the effective operation of the Department be imperiled.

A feeling exists among police officers that there is not adequate citizen interest nor support for them. A community that does not support its law enforcement agencies cannot expect a high level of performance or morale.

PORNOGRAPHY INVESTIGATION

The American home is the heartbeat of the community and the nation. Love is the basic concept of the American home, and is the one four-letter word that the pornographer never uses.

The Dade County Grand Jury is deeply concerned with the escalation of obscene and pornographic material now flooding our community and our nation, and we believe:

- (1) That this moral pollution has an eroding effect upon public morality and is breaking down the concept of the American home;
- (2) That obscene and pornographic material cannot be disseminated to an adult population without it falling into the hands of our children, and we vehemently object to our children being sexually educated by the pornographer;
- (3) That pornography is anti-sex, an insult to sex, degrades and debases sex and makes sex dirty;
- (4) That pornography dehumanizes and makes women mechanical, to be used and abused for pleasure; and
- (5) That pornography and obscenity should be restrained in the name of good common sense.

We therefore urge our elected representatives and all law enforcement agencies in our community, and our nation, to take effective and prompt measures to enforce existing obscenity laws and to strengthen and improve existing laws.

To this end, we make the following recommendation for changes in legislation:

1. That stiffer penalties be meted out as a deterrent, including a mandatory jail sentence for a second conviction.

2. That a separate "pandering" law be adopted, making it a felony for a person to be engaged in the commercial exploitation of sex.
3. That a state statute be adopted by the Legislature creating a State Board of Review, similar to the State of Maryland's, to approve all motion picture films which are intended to be shown to the public in the State of Florida, and to prohibit the showing of obscene films.
4. That a statute be enacted requiring owners and proprietors of adult books stores and motion picture theatres to post a notice to their employees informing them of the provisions of our obscenity laws, including the penalties for a violation of these laws.
5. That the Corporate Charter Law be amended to allow the Secretary of State to revoke a corporate charter where they fail to comply with the provisions of the corporate law, such as filing of resident agent forms and changes of officers and directors.
6. That the Legislature enact a public display law (in addition to the other laws) prohibiting the public display of sexually explicit material in any public place where children are permitted.
7. That "live shows" be included in the present obscenity laws.
8. That the Obscenity Law in Florida be amended to define obscenity as the Supreme Court has defined it, which recited:

"that the following shall be considered obscene, by illustration but not by limitation, various acts of sodomy, masturbation, mass orgy, bestiality, sado-masochism, and sexual intercourse."
9. That municipalities be given injunctive power under the obscenity law.

In addition to the foregoing legislation, we also recommend:

1. That cities adopt licensing ordinances for the licensing

of adult book stores and motion picture theatres whereby some kind of procedure is set up for the revocation of licenses.

2. That the producers of legitimate motion pictures in Hollywood exercise the moral leadership necessary to establish a proper moral climate in this nation.

3. That the newspapers refuse to accept advertisements which have suggestive and sexually explicit titles which are offensive to a large portion of our community.

4. That future Grand Juries seek to ferret out the source and the distributors of obscene material to adult book stores.

5. That future Grand Juries consider the feasibility of indicting non-residents who are disseminating obscene material in the State of Florida, with a view towards their extradition.

6. That the State Attorney add additional members of the Florida Bar to his Task Force on Pornography.

In conclusion, this Grand Jury expresses sincere gratitude and commends the State Attorney's Office, the Special Task Force on Pornography, the officers of the Public Safety Department working with the Task Force, and the Circuit and Criminal Court Judges for dealing effectively with violators of the Obscenity Laws.

CELONA INVESTIGATION

In April of 1969, charges of public corruption, which have come to be known as the Celona Investigation, first came to public view. Since then every Dade County Grand Jury has recognized the importance of this investigation and ensuing prosecutions.

This Grand Jury retained Mr. William A. Daniel, Jr. as its Special Counsel to prosecute and complete such investigation. Since its inception, these matters have been diligently pursued by the Sheriff's Department, the assigned State Attorneys, former Special Counsels, and currently Mr. Daniel. We believe the success of their endeavors are best illustrated by the fact that there have been arrests of more than 30 individuals. Some 14 or so have been found guilty in the Courts and either sentenced or placed on probation. There are still some cases pending.

Our investigation has now been completed and it is our recommendation that it should be terminated at this time. We urge that all pending cases be forcefully fought to their final conclusion in the Courts.

Recently, certain cases prosecuted by State Attorney Robert Eagan were dismissed in Criminal Court. These cases should be promptly appealed or refiled. Additionally, we urge Governor Askew, by any necessary Executive Order, to protect and continue the prosecution of these cases.

We urge continuing liaison between all governmental bodies and especially the Sheriff's Department with any future Grand Juries should any useful information develop from those currently under sentence or indictment.

Pursuant to Executive Order, the Dade County State Attorney's Office

has been precluded from participation in said investigation. In our investigation, this Grand Jury has found no evidence of wrongdoing in the State Attorney's Office and commends the assistance said office has provided Special Counsel and other State Attorneys charged with the prosecution of these cases.

Law enforcement in Dade County can only be served through the complete cooperation of all interested parties.

ACKNOWLEDGMENTS

This Grand Jury is deeply grateful to Judge Raymond G. Nathan who instructed us in our duties and responsibilities. We appreciate the wise and valuable counsel of Judge Nathan and admire his high legal ethics.

The State Attorney's Office has been very cooperative and indispensable in helping this Jury to discharge its duties in an efficient and effective manner. The people of Dade County are indeed fortunate to have this most important office under the leadership of Richard E. Gerstein and his capable staff. We wish to especially thank Assistant State Attorneys John B. Orr, Jr., Joseph Durant and David Goodhart who proved to be both effective and objective in presenting cases to this Grand Jury.

We owe a debt of gratitude to the Special Assistant State Attorneys, particularly Leonard Rivkind and Norman K. Schwarz for their untiring efforts to rid this county of the evils of pornography.

Eleanor M. Robinson, Administrative Assistant to the Grand Jury, proved a competent and dedicated worker. Her friendly guidance helped the Jury to function smoothly.

We also wish to thank our Bailiff, Wallace D. Culbertson, Jr. for duties performed.

Respectfully submitted,

Donald S. McCorquodale
Donald S. McCorquodale, Foreman
Dade County Grand Jury
Fall Term 1970

Attest: *Marjorie H. Powell*
Marjorie H. Powell
Clerk

Dated: May 11, 1971