

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

SPRING TERM A. D. 1970

FINAL REPORT OF THE GRAND JURY

Filed

November 10, 1970

Circuit Judge Presiding

GENE WILLIAMS

Officers and Members of the Grand Jury

ARTHUR A. PENDLETON, Foreman

JOHN W. OWENS, Vice Foreman

HELEN R. GLASGOW, Clerk

JEANNE D. PATTERSON, Asst. Clerk

R. TRENT CODD, Treasurer

ELDEN CLARK BECK

CHARLES J. BRADSHAW

CATHERINE F. BYRNE

PAUL E. CLARK, SR.

GLORIA O. DASH

GEORGE H. DOMMON

F. RUSSELL FLOYD

SHIRLEY M. FRISHMAN

JOHN M. FROHOCK

MOLLIE JACOBS

KATHERINE L. LANAHAN

BARNET LUBIN (Excused)

RALPH E. LUND

ROGER D. McWHORTER

CHRISTINE C. PROCTOR

J. ROBERT STOBS

GERALD O. TAYLOR

VERENA A. TUMMINELLO

\*\*\*\*\*

State Attorney

RICHARD E. GERSTEIN

Assistant State Attorneys

N. JOSEPH DURANT      DAVID GOODHART

JOHN B. ORR, JR.

\*\*\*\*\*

Special Counsel

KARL J. LEIB, JR.

WILLIAM A. DANIEL, JR.

RONALD I. STRAUSS

\*\*\*\*\*

Clerk of the Circuit Court

E. B. LEATHERMAN

\*\*\*\*\*

Administrative Assistant

ELEANOR M. ROBINSON

Official Court Reporter

JACK W. MALLICOAT

\*\*\*\*\*

Bailiff

WALLACE D. CULBERTSON, JR.

INDEX

<u>SUBJECTS</u>	<u>PAGES</u>
THE GRAND JURY	1 - 4
JUSTICES OF THE PEACE	5 - 8
CELONA INVESTIGATION	9 - 10
PORNOGRAPHY	11 - 12
POLLUTION INVESTIGATION	13
HUMANE SOCIETY	13
COMPENSATION OF GRAND JURORS	14
ACKNOWLEDGMENTS	15 - 16

<u>Defendant</u>	<u>Charges</u>	<u>Dispositio</u>
JACOB MEYERS	Sale of Obscene Magazines and Films	True Bill
RALPH FRANCO	Sale of Motion Picture Films	True Bill
ARTHUR BARKER	Sale of Obscene Magazines	True Bill
MILTON ATLAS	Sale of Obscene Magazines	True Bill
MIGUEL SOSA	First Degree Murder	True Bill
FRED EXUM	Soliciting a Bribe	True Bill
ELMER FINNIE	First Degree Murder	True Bill
ARMANDO PORIAS, IRA DRUCKMAN, ROLANDA SERPA, and ELSA GOMEZ	Conspiracy to Commit a Felony Unlawful Abortion Inciting to Commit Perjury	True Bill
DANILO LINARES	Extortion	True Bill
DINILO LINARES	Extortion	True Bill
WILLIAM DREYER	Accepting a Bribe	True Bill
JOHN L. MONEYHUN	Grand Larceny	True Bill
DAVID LEE GRIFFIN	Rape	True Bill
FRED EXUM	Embezzlement	True Bill
MILTON NIPORT	First Degree Murder (2 Counts)	True Bill
OZZIE LEE PIERCE	Rape	True Bill
EDDIE LUDLOW	Second Degree Murder	True Bill
WILLIE JAMES SIMPSON	First Degree Murder	True Bill
ROBERT LABOVITCH	Accepting a Bribe	True Bill
J. CHARLES SAVARESE	Perjury	True Bill
GEORGE BOUCHER and GEORGE BINDER	Grand Larceny	True Bill
GEORGE BINDER	Breaking & Entering a Building Grand Larceny	True Bill

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charges</u>	<u>Disposition</u>
CHARLIE MASON	Rape	True Bill
CHARLES HENRY BALDWIN	Second Degree Murder	True Bill
RICHARD LEE RIESER	First Degree Murder	True Bill
VINCENT LOUIS MILTON	Rape	True Bill
EARNEST EUGENE ANDERSON	First Degree Murder	True Bill
JASPER M. F. TAYLOR	First Degree Murder	True Bill
VINCENT LAMAR CLARK	First Degree Murder	True Bill
HERBERT ALONSO EVANS	First Degree Murder	No True Bill
PARIS FOLLIES, INC., a Florida Corporation, ELL-GEE, INC., and LEROY GRIFFITH	Unlawful Showing of Obscene Motion Picture	True Bill
PARIS FOLLIES, INC., a Florida Corporation, ELL-GEE, INC., and LEROY GRIFFITH	Unlawful Showing of Obscene Motion Picture	True Bill
GAYETY THEATRE, INC., a Florida Corporation, GRIFFITH L. C. PRODUCTIONS, INC., a Florida Corporation, and LEROY GRIFFITH	Unlawful Showing of Obscene Motion Picture	True Bill
JAMES McCLENTON SWEETING	Rape	True Bill
ADOLPH MARKS	Sale of Obscene Magazines	True Bill
WILLIAM ALLEN M. GARRETT, also known as AL LEWIS, also known as CHARLES DAWSON	First Degree Murder	True Bill
BOBBY GENE WILLIAMS	First Degree Murder	True Bill
JOHNNY BROWN and JOHNNY LEE CANNADY	First Degree Murder	True Bill
JERRY DEAN JACKSON	First Degree Murder	True Bill
MAURICE CRONEN	Sale of Obscene Magazines	True Bill
STAR ADULT BOOKS, INC., a Florida Corporation, and NICK GAGGI	Sale of Obscene Magazines and Films	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Dispositio</u>
ELL-GEE, INC. LEROY GRIFFITH NANCY CHERYL FREEMAN NORMAN PAUL MEARES HUGH WASHINGTON WILLIAMS, JR. KAREN DE VRIES CAROLE ANN HOLLENBECK JOHN COPELAND and MARC BROCK	Lewd and Lascivious Behavior Indecent Exposure Operating a Building for Lewdness	True Bill
LENNON JONES	Rape	True Bill
LENNON JONES	Rape	True Bill
LOUIS ALTOBELLI	Grand Larceny	True Bill
JOSE VALDES, also known as JOSE VALDES HERNANDEZ	Rape	True Bill
CHRISTOPHER JOSEPH KENNEDY	Second Degree Murder	True Bill
FRED EXUM, JR.	Accepting a Bribe	True Bill
WILLIE ALBERT EATON	Assault with Intent to Commit Rape	True Bill
PEDRO PEREZ CLARA PEREZ and FELIX BRACO	Conspiracy to Violate Lottery Laws Aiding and Assisting in Conducting a Lottery Setting Up, Promoting and Conducting a Lottery Unlawful Possession of Lottery Tickets	True Bill
HUMBERTO TRUEBA ANTONIA TRUEBA ARELIE FERNANDEZ EMILIO RODRIGUEZ ILUMINADA FERNANDEZ and a white male known only as ROGELIO	Conspiracy to Violate Lottery Laws Aiding and Assisting in Conducting a Lottery Setting Up, Promoting and Conducting a Lottery Unlawful Possession of Lottery Tickets	True Bill
RICHARD CLAYTON KELVIN ARNOLD and CLINTON HOLLINGER	First Degree Murder	True Bill

## "THE GRAND JURY"

The Grand Jury is one of the oldest governmental institutions known to the law. Ever since its inception it has been, and still is, an agency of the government acting for the purpose of investigating into all crime and wrongdoing within the county. It is vested with great power. No body of men or women exercises public functions more vital to the administration of law and order. Its deliberations and its determinations are of great importance to the people in whose name and for whose protection it acts. To Grand Juries are committed the preservation of the peace of the county, the power to bring to light for examination and punishment all acts of lawlessness, violence, terror and indecency. Such power is indeed broad and far reaching. Jury service, particularly Grand Jury service, in our opinion, is the highest duty a citizen can be called upon to perform in times of peace.

The proceedings of the Grand Jury are secret, for the following reasons:

First, where a person is unjustly accused, it would obviously be unfair to make public the fact that he is charged with an infamous crime. The secret proceedings protect such a person, for public accusation of a serious crime made against an innocent person may produce irreparable injury to his or her reputation. The proceedings of the Grand Jury, held in private, are designed to prevent such injustice.

The second compelling reason for keeping the proceedings secret is that the witnesses who testify against one accused of a crime are rendered reasonably safe from harm by those accused. Secrecy is a guarantee of protection to witnesses from injury by powerful interests against whom they might otherwise be unwilling to appear.

A third reason is based upon the fact that it reduces to a minimum the possibility of attempts to influence the People's witnesses; the witness's testimony has been given under oath - his testimony is otherwise undisclosed and his identity is not made public.

The Grand Jury is vested with broad powers. It stands for law and order and for the protection of the people of the community against injustice, lawlessness and wrongdoing on the part of public officials. It is of extreme importance that malice, prejudice and partisanship should have no place in the grand jury room. A spirit of fair play, courage and patriotism are qualities that must at all times control its deliberations. Only citizens of the highest probity and intelligence are truly qualified to serve as Grand Jurors. With its almost limitless powers, it might, unless motivated by the highest sense of justice, find indictments on insufficient proof and thus become a source of oppression to our citizens; or, on the other hand, might dismiss charges against one who should be indicted.

The Grand Jury is a completely independent body, answerable to no one, save, possibly, the court. No inquiry may be made to learn what a grand juror said or how he voted; the veil of secrecy surrounding the acts of Grand Jurors serves as a complete barrier to any investigation into the motive which inspired his action. Even though it were possible to make such investigation, consideration of public policy would require that no action should be maintained against a Grand Juror for any act done in his official capacity. If he could be called upon to explain or to answer for his official acts to a person indicted, it would operate in many cases as a powerful deterrent.



to finding an indictment. The law, therefore, affords a Grand Juror complete immunity for his official acts.

How vital it is therefore that our Grand Jurors be citizens of unquestioned integrity and of high character!

When this Grand Jury was first assembled in one body on May 12, 1970, we were instructed regarding our duties and responsibilities as Grand Jurors. Each of us recognized and accepted these responsibilities and have attempted to diligently adhere to the Oath administered, notwithstanding the temptation to respond to public attacks upon this body and its members.

The Grand Jury feels that the reckless and irresponsible charge made in the news media were an attempt to cast suspicion upon the integrity of the members of this body.

We further feel that such charges were misleading, untrue, and constitute an unwarranted reflection upon each of us.

We respectfully suggest that the Florida Bar Association conduct an investigation into this matter.

The Grand Jury respectfully recommends that to avoid duplication of the delays and frustrations thrust upon this body that certain specific steps be taken to prevent their recurrence.

1. That a body of five non-political attorneys be appointed by the Dade County Bar Association to be on stand-by to assist future Grand Juries should the need arise.
2. That the Circuit Court Judge impaneling each new Grand Jury immediately issue an injunctive order prohibiting the State Attorney, all Assistant State Attorneys, Acting State Attorney Special Counsel, investigators, court reporters, interpreters, Grand Jurors, and Grand Jury personnel from making any extra

judicial comment or speculation concerning any matter under consideration by the Grand Jury without the Court's permission and under penalty of Contempt of Court.

3. That the Florida State Legislature immediately undertake to enact legislation prohibiting the disclosure of testimony or evidence received by the Grand Jury, regardless of whether such person making such disclosure actually made a personal appearance before the Grand Jury.

4. And finally, we recommend that the Florida Legislature immediately undertake to revise the Criminal Statutes concerning obstruction of justice in order to provide more meaning and protection to the Grand Jury system.

The one and complete safeguard against all criminal activities lies with fearless, aggressive, efficient Grand Jurors, who knowing the great powers they possess, use, but never abuse, such powers and at all times exercise them for the benefit and welfare of the people of the community.

JUSTICES OF THE PEACE

This Grand Jury has conducted an investigation into the Justice of the Peace Courts in Dade County, Florida. These courts have been the subject of rumors, innuendos, and open attack by many citizens of this community, along with the news media.

The Grand Jury in its effort to fairly and objectively evaluate these matters has heard from numerous witnesses, including Judges of the Justice of the Peace Court, a Judge of the Criminal Court of Record, Constables, employees of the Justice of the Peace Courts, officers of the Department of Public Safety, other public officials, bail bondsmen and citizens of this community having had business before and with the Justice of the Peace Courts.

More specifically, in those areas, where indictments were not returned, nor commented on by prior special reports, the Jury found as a basis of fact that:

1. The geographical districts as structured are unwieldy and unequal as regards the population contained within their boundaries.
2. Some of these Courts are often hampered in their operation because of the lack of uniformity in the manner in which they convene and cases are scheduled.
3. These Courts have inconsistent requirements concerning the payment of costs of complaining parties.
4. Justice is often delayed and in some instances denied because of the absence of a uniform procedure in the issuance of witness subpoenas.
5. The administration of these Courts can be improved with the institution of uniform practice in the setting of bail bonds and the

manner in which bail bonds are handled.

6. In some instances these Courts are delinquent in concluding whether or not a defendant should be bound over to the Criminal Court of Record.

7. As concerns the conduct and operation of the Justice of the Peace Court, District 1, we specifically found the following:

(a) That without statutory authority or necessity, the Court appointed "elisors" to exercise the duties and functions properly imposed upon the Sheriff and Constable's Office.

(b) That these elisors are non-salaried and not public servants but are cloaked with the authority and power of the Court. Such practice has brought coercive pressures to bear upon both those accused and the complaining witnesses themselves. Indeed, one of these elisors has been found to have a criminal record.

(c) That Arrest Warrants have been issued on 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.

(d) That the Court permitted and condoned the setting of bail bonds by elisors and constables, a duty and responsibility properly exercised only by the Court itself.

(e) That the Court has condoned acceptance by elisors, bail bondsmen and constables of restitution from those accused and has dismissed such cases rather than bind them over to the Criminal Court. Such abuses are not permitted by law and have only resulted in a glorified collection agency, a function not intended for any Court of Justice.

(f) That the Court has accepted cases in which the alleged offense occurred in other geographic jurisdictions. The Court does not have authority to accept such cases and should have refused them. The Court has heard such cases and even dismissed them without transferring them to the proper Justice of the Peace Courts.

(g) That in many cases, witnesses were not subpoenaed, a responsibility of the Court, and such cases were dismissed by the Court. In one such instance, no witnesses were advised to appear for a hearing of 35 cases; rather than continue each case and subpoena the witnesses, the Court, over objection of the arresting officer, dismissed all 35 cases. The alleged defendant was never required to face the charges; all to the detriment of the public interest.

#### CONCLUSION

We strongly believe the Justice of the Peace system is an anachronistic one that is not required or necessary, the functions of which can be adequately absorbed by existing courts of record. It is an archaic system designed for a small, rural society of the nineteenth century and not a twentieth century urbanized society.

The very reasons which people assign value to the Justice of the Peace system is the basis for the misuse of the system itself,

and that is the alleged closeness to the people because it is not a court of record and sits in a local area. These very reasons are the basis upon which such abuses have come into existence and have been allowed to thrive and grow. The lack of being a court of record allows abuse of discretion. Furthermore, procedures exist which would not be tolerated in a court of record. The system permits certain friendships and associations to play a part in the judicial system.

The lack of formality, the lack of accountability and the delays in transmittal of papers results in a system that is deplorable.

We strongly recommend the abolition of the Justice of the Peace system in Dade County and urge our Dade County legislators to file the appropriate bills to give the citizens of Dade County the opportunity by referendum to abolish this system, as have twenty-five other counties in Florida.

CELONA INVESTIGATION

The preceding Grand Jury by its Report dated May 12, 1970, strongly recommended that the Celona investigation of corruption by public officials be continued and that Special Counsel be retained to investigate, present and prosecute forthcoming indictments.

On or about May 26, 1970, the State Attorney for Dade County advised this Grand Jury to the contrary saying that the investigation was almost complete, and that there was no need to hire Special Counsel. This advice was without merit. This Grand Jury has found that the investigation is vitally important and far from complete and that it is essential that such investigation be continued.

It was only through Special Counsel that this Grand Jury was informed that an Executive Order had been issued by the Governor appointing Robert Eagan, State Attorney for the Ninth Judicial Circuit, to conduct and act as the sole prosecutor in this investigation in our Judicial Circuit. Special Counsel retained by prior Grand Juries and this Grand Jury have been added to this Order. Any counsel retained by the Fall Term 1970 Grand Jury must first be added to such Order. The appointment of such counsel by the Fall Term 1970 Grand Jury should be the first order of business in order to pursue without delay this matter which is of extreme importance to the welfare of this community.

This investigation has been conducted solely by the Organized Crime Division of the Dade County Department of Public Safety. These services have been invaluable and such men should continue and complete their efforts for this Grand Jury. They have given unselfishly of their time, effort, manpower and ability. They have worked directly

and in an unprecedented accord with the Spring Term 1970 Grand Jury Special Counsel. The Public Safety Director and officers of his department worked twelve to fourteen hours a day knowing full well that there was neither material compensation nor compensatory time off. They, more than anyone, realized the magnitude and seriousness of this investigation. Finding the Spring Term 1970 Grand Jury anxious and unequivocally willing to give time, effort and moral support helped give these dedicated men greater impetus to continue this investigation.



## PORNOGRAPHY

Acting upon the recommendation of the Fall Term 1969 Dade County Grand Jury, we have continued a probe into the sale of obscene and pornographic books, magazines and films. We find that pornography has escalated from mere nudity on the stage and girlie magazines to every known form of erotic human sexual behavior, known and imagined, and aberrancies of sadism and masochism. This obvious proliferation of filth, now a two billion dollar a year business, will surely manifest itself in other media and become the rule rather than the exception, if not stopped.

When you have gone as far as you can go, what is left? History has proven the undermining of the dignity and sanctity of the home preceded the demise of great civilizations. Apparently the lessons of history have fallen on the deaf ears of some of our judiciary. Absolute freedom of behavior and expression of the pornographic results in the degeneration of a social system and a total eclipse of the arts. Civilization and animal standards of behavior cannot long co-exist.

Is there a solution? Can morals be legislated? We think so. As a nation of paternalistic laws, we require our citizens to save for their old age, although some would live for today; gambling is sanctioned only under state control; marijuana is forbidden; ready and willing prostitutes are barred by law; even cutting your own throat is a criminal act. This Grand Jury is not interested in dissipating decollete nor setting forth upon a witch hunt concerned with a puritanical purification of American virtue.

We do feel that we have gone as far as we can go.

Can liberal and conservative, literati and Philistine, urban and

rural citizens co-exist? Various alternates to enforcement of existing obscenity laws have been offered, among them:

1. Legalize obscenity for adults. The logic, apparently, legalize it and it will go away by itself. We have only to look at Denmark, the only country to completely legalize pornography, to view the appalling and degrading results.
2. Apply a double standard. Legalize a certain level of obscenity for adults and another for juveniles. This alternate appears politically sound but begs the question. The smut pedlar sells to an adult audience and avoids sales to juveniles. If obscenity is legalized for adults, it must find its way to the young, whether from Dad's dresser drawer or a Boy Scout paper drive. Such a double standard would be impossible to enforce.

The only workable alternative is stricter enforcement of existing obscenity laws which have been consistently recognized as constitutional by the United States Supreme Court and which make it a criminal offense to produce, distribute or sell obscenity to adults or juveniles. Into each and every law there should be included definitions which describe that material which to the average person, applying contemporary community standards, the dominant theme of the material taken as a whole, appeals to the prurient interest.

Juries, in their wisdom, can then determine whether or not a specific book, magazine, film or other subject is or is not obscene.

POLLUTION INVESTIGATION

We issued an Interim Report on September 8, 1970, indicating real concern for the ineffectiveness of pollution control in Dade County.

Since the issuance of that report, the new County Manager has shown an apparent intent to treat the protection of the County's ecology as an area of primary importance. We recommend that all Dade County governmental bodies take whatever means are at their disposal to improve and maintain our favorable environment.

HUMANE SOCIETY

We received many complaints from citizens of Dade County alleging a variety of wrongdoings at the Humane Society. Based upon these allegations, we requested the State Attorney's Office to conduct a thorough investigation in order to determine if these allegations had in fact a basis for any action against the Humane Society.

We must conclude that from a thorough investigation by the State Attorney's Office, in conjunction with the Public Safety Department, plus substantial testimony taken from a variety of witnesses that those allegations are not well founded. Furthermore, we do not find sufficient evidence to either criticize or charge the Humane Society with a violation of the law.

COMPENSATION OF GRAND JURORS

Serving as a Grand Juror is a satisfying and rewarding experience. However, due to the long hours of labor and the tremendous responsibility of determining whether an individual should be indicted for a serious crime, we feel that the compensation of Grand Jurors now provided by law is woefully inadequate.

Therefore, we recommend that the Florida Legislature enact legislation to provide that County Grand Jurors shall be paid twenty dollars per meeting, which is commensurate with the present compensation of Federal Grand Jurors.

ACKNOWLEDGMENTS

We owe a deep debt of gratitude to E. Wilson Purdy, Director of the Public Safety Department, for his untiring efforts to aid and assist us in many of our investigations. Without his attentive help and the constant presence and efforts of men like Lt. Steven A. Berticelli, Sgt. Terence Polcyn, Sgt. David Green, Sgt. George R. Havens, Detective William Guthrie, Detective Norman Lyons, and Detective Richard E. Shockley, our efforts in many investigations would have been fruitless. Dade County is indeed fortunate to have such men leading our law enforcement efforts.

Criminal Court Judge Murray Goodman provided invaluable advice during our deliberations.

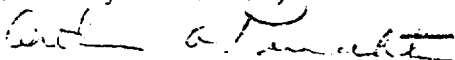
Our Special Counsel, Karl J. Leib, Jr. and William A. Daniel, Jr., have faithfully, with a consummate degree of forthrightness and legal ethics, advised us during our term. Much of their efforts would be of little value without their guidance and counsel.

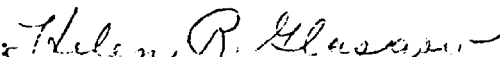
To Joseph Durant, Assistant State Attorney, we offer sincere thanks for his meaningful help in our investigations into pornography and Justice of the Peace Court, District 1.

Eleanor M. Robinson, Administrative Assistant to the Grand Jury, has labored long and hard hours. She is a dedicated servant to the Grand Jury system, untiring and always cheerful and courteous in her attitudes.

Judge Gene Williams, who impaneled us in May, 1970, has wisely counseled us with calmness, dignity and reason. His patience and wisdom are greatly appreciated.

Respectfully submitted,

  
Arthur A. Pendleton, Foreman  
Dade County Grand Jury  
Spring Term 1970

Attest:   
Helen R. Glasgow, Clerk

Dated: November 10, 1970