

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

SPRING TERM A. D. 1971

FINAL REPORT OF THE GRAND JURY

Filed

November 9, 1971

Circuit Judge Presiding

JACK A. FALK

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BEN C. McGAHEY, Vice Foreman

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CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charges</u>	<u>Dispositi</u>
DENNIS ROBERT HUGHES	First Degree Murder	True Bill
ALVIN WAITS	Rape	No True P
GEORGE P. ALVIS	Rape	True Bill
ISAAC DON BUTLER and GERALD LEWIS NICKLES	Rape	True Bill
T. MARLOW JACOBSEN	Conflict of Interest	True Bill
HAROLD DARVIS WARE	First Degree Murder	True Bill
GERALD LEE DELANCY	Rape	True Bill
WALTER WILLIAMS	First Degree Murder	True Bill
WILLIAM EMILE COURNOYER	Rape	True Bill
HARRY BERNARD STEPHENSON	Rape	True Bill
JAMES SCRIVENER	Embezzlement	True Bill
JAMES J. KOEDATICH	First Degree Murder	True Bill
FRED DONLEY WILLIAMS	Rape	No True B
NATHANIEL JOHNSON DAVIS	First Degree Murder	True Bill
HERMAN BRIDGES	First Degree Murder	True Bill
RAMON LUIS RIVERA	First Degree Murder	True Bill
JULIUS JACKIE ROBINSON	Second Degree Murder	True Bill
BRUCE WARREN ROYAL	First Degree Murder	True Bill
FREDDIE JAMES McNAIR	Rape	True Bill
EWART AINSLEY JOHNSON	First Degree Murder	True Bill
CHARLES SMITH, also known as CHARLES DYE, SAMUEL LEE HARRIS LONNIE SURRENCY	Rape	True Bill
WILLIAM MILLEDGE, also known as BILLY	First Degree Murder	True Bill
THOMAS FRANCIS FRENCH	First Degree Murder	True Bill
SAMUEL MOORE, JR. and FRANKLIN DOUGLAS RUDISEL	First Degree Murder	True Bill

<u>Defendant</u>	<u>Charges</u>	<u>Dispositi</u>
THOMAS STEPHENS	Contributing to the Delinquency of a Minor (Four Counts)	True Bill
JAMES ALLEN TOLLE	Contributing to the Delinquency of a Minor (Two Counts)	True Bill
KELSEY BETHEL	Rape	True Bill
LEO LaFRANCE	First Degree Murder	True Bill
LEO THALASSITES	Indictment for Extortion	True Bill
HERBERT MAGNES and ROBERT L. TURCHIN	Indictment for Conspiracy To Commit a Misdemeanor and Unlawful Acceptance of a Gift by Public Official	True Bill
CORRIE EDWARD LEE, JR.	Rape	True Bill
CORRIE EDWARD LEE, JR.	Rape	True Bill
RUBY GLORIA JEAN JOHNSON	First Degree Murder	True Bill
ROBERT LEE CONEY	First Degree Murder	True Bill
WILLIE JAMES DENNIS	First Degree Murder	True Bill
ARTHUR LEE SAMPSON also known as ARTHUR LEE SIMPSON	First Degree Murder	True Bill
PRINCE ALBERT JOHNSON	First Degree Murder	True Bill
AL FEATHERSTON, ARONIFF IBRAHAM, DAVID JACKSON, RICHARD TAYLOR, SAMMIE LEE HARRIS, WILLIE CHARLES HARRIS, DANIEL DENARD and EUGENE THOMPSON	Conspiracy to Commit Arson and Arson in the Second Degree	True Bill
AL FEATHERSTON, WILLIE CHARLES HARRIS, CHARLES RILEY, also known as DANIEL JACKSON, JOHN CLYTUS, ARONIFF IBRAHAM, GARY SLAUGHTER, EDDIE SLAUGHTER, RICHARD TAYLOR, DAVID JACKSON, KERMIT ROBERTS, BETTY BUTLER, DOROTHY VILLINE and SHIRLEY LEE, also known as SHIRLEY JOHNSON	Conspiracy to Commit Arson and Arson in the Second Degree	True Bill

<u>Defendant</u>	<u>Charges</u>	<u>Dispositio</u>
BETTY ANN CHRISTIANSEN	First Degree Murder	True Bill
LONNIE RAINEY	First Degree Murder	True Bill
JASPER LEWIS, JR.	Assault & Battery	True Bill
JASPER LEWIS, JR.	Soliciting a Bribe	True Bill
JASPER LEWIS, JR.	Contributing to the Delinquency of a Minor	True Bill
WILLIAM ANDERSON	Aiding Escape of Juvenile and Contributing to the Delinquency of a Minor	True Bill
WILLIAM ANDERSON	Contributing to the Delinquency of a Minor	True Bill
LORNA CASEY	First Degree Murder	True Bill
GHOLAM AKI GHARAMANI	First Degree Murder	True Bill
CECIL SEAY	Accessory After the Fact	True Bill
MURRAY MEYERSON and SUMNER SPELLMAN	Conspiring to Commit Grand Larceny, Grand Larceny and Compounding a Felony	True Bill
IRVING DUCOFF	Public Official Accepting Unlawful Compensation and Offering Unlawful Compen- sation to a Public Official	True Bill
KATHERINE WILLIAMS	First Degree Murder	True Bill
FRANKLIN C. CLAYTON, JR.	Second Degree Murder	True Bill
ANTHONY SYLVESTER CUTLER	First Degree Murder	True Bill
ANDRES CANGINO	Rape	True Bill
JERRY LORENZO SIMONS	Rape	True Bill
VERNON PITTMAN	First Degree Murder	True Bill
CHARLES HILL and JOHN STRACHAN	Aiding Escape of Juvenile and Contributing to the Delinquency of a Minor	True Bill
JOHN STRACHAN	Contributing to the Delinquency of a Minor	True Bill
WILLIAM C. JOHNSON	Contributing to the Delinquency of a Minor	True Bill
WILLIAM C. JOHNSON	Aiding Escape of Juvenile and Contributing to the Delinquency of a Minor	True Bill

TO THE HONORABLE JACK A. FALK, CIRCUIT JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

Ours was the first Dade County Grand Jury selected under the new law, whereby Circuit Court Judges themselves choose citizens to serve. Each of us accepted the oath of office, therefore, with a deep sense of personal commitment. We were determined to adhere to the charge of our mentor, Judge Jack A. Falk, that the Grand Jury is "a sword and a shield in the hands of the people."

Whether we have carried out our duties well is not for us to say. In judging ourselves, we can only report to our fellow citizens that every issue, every conflict, and every matter brought before us was freely and fully debated. Our decisions, whether prudent or imprudent, were always a reflection of the democratic majority. And since we have been chosen without political regard, we may infer that those decisions might be representative of the majority of the people of Dade County.

When we began our term six months ago, we decided to make an independent survey of our community and determine those areas affecting the public interest where our investigations might prove beneficial. Heretofore, most Grand Juries only looked into matters brought to their attention by public officials, the news media, and on occasion, by a private citizen or group of citizens.

Thus our policy has been to select and vigorously pursue a number of problem areas which we, as a body, decided upon. The results of these investigations form our final report.

There has been, in recent years, considerable public speculation that the State Attorney's Office, and more particularly

Richard E. Gerstein, has unduly influenced the Grand Jury in its deliberations. Speaking from our association with him during our term, we publicly submit that of all the public officials who have assisted this Grand Jury, Mr. Gerstein has proven to be among the most objective and impartial.

During our term we were greatly assisted by three prominent Miami lawyers, who, acting as Assistant State Attorneys, provided enormous assistance to this body. Messrs Charles George, Dan Paul and Parker Thomson gave freely of their time and talents to aid the Grand Jury in its investigations.

These lawyers should be an inspiration to lawyers before the Dade County Bar, and we urge other local attorneys to follow their path and make themselves available for service to the community through future Grand Juries.



INVESTIGATION OF THE  
ELECTION CAMPAIGN OF EARL FAIRCLOTH

This Grand Jury has conducted an investigation of reported election law violations in the gubernatorial campaign of former Attorney General Earl Faircloth.

Charles K. George, a well respected Miami lawyer was appointed as a Special Assistant State Attorney to insure that the probe would not be subject to attack as a "political assassination". Assistant State Attorney Jeffrey Michael Cohen was assigned by the State Attorney to work with Mr. George.

This investigation was initiated by the Fall Term 1970 Grand Jury, and conducted in depth by this Jury. Since the campaign was state-wide, we recognized that violations of the election law might be found in counties where this Grand Jury does not have jurisdiction. We determined that the investigation would encompass all aspects of the campaign, and that evidence of violations in other counties would be forwarded to the proper officials for appropriate action. The Grand Jury decided to focus on alleged violations committed by the candidate, or those in leadership positions in the campaign, rather than on violations committed by contributors or those persons not closely involved.

The investigation has taken more than eight months. Testimony has been elicited from more than 50 witnesses and many others have been interviewed. Extensive financial records of five bank accounts were subpoenaed. In addition, all records filed with the Secretary of State in Earl Faircloth's 1970 campaign for Governor and his 1968 campaign for United States Senator were acquired. The investigators and a certified public accountant reviewed and analyzed all of this material.

All evidence obtained in the investigation was correlated to the election law. In many instances, though the letter of the law had not been violated, the purpose of the law had been flaunted.

As a result of our investigation we have reached the following conclusions:

(1) We do not find sufficient evidence to indict Earl Faircloth or any of his high ranking supporters in Dade County.

(2) We have found evidence which must be presented to the Leon County Grand Jury for it to determine if there is probable cause to indict Earl Faircloth for a felony violation of the Florida election law

(3) We respectfully urge the Governor of this State, the Honorable Reubin O'D. Askew, to assign State Attorney Richard E. Gerstein and Assistant State Attorneys Charles K. George and Jeffrey Michael Cohen to Leon County to present the evidence we have gathered to a Leon County Grand Jury.

(4) We respectfully urge the Governor of this State to appoint a group of citizens and office holders to review and revise the election laws. Florida has what is supposedly one of the more effective election laws in the nation. Yet, we have found it to be virtually unenforceable. It is honored more in the breach than in observance. It is common knowledge in this state, in political circles, that almost no one has ever run for public office while adhering to the letter and spirit of the election law. Much of the law is confusing and ambiguous. It is a hodge-podge which fails to place responsibility where it belongs on the candidate and his principal money raisers. Meaningful enforcement of the present law is virtually impossible.

This investigation has dramatically demonstrated to us the ineffectiveness of our election laws. The evidence gathered suggests

that Earl Faircloth and his close associates treated the legislative intent expressed in the election statutes with utter disdain. However, few prosecutable charges have been found because the present law is virtually unenforceable. No centralized public agency is charged with the responsibility of investigating, policing and enforcing the election law. State Attorney Richard E. Gerstein has made intensive efforts to enforce the law in this and other instances, but a local prosecutor and local law enforcement agencies cannot prosecute or effectively investigate a state-wide campaign. To place the responsibility for the enforcement of the election laws on local agencies or private individuals, as the law currently does, invites political manipulation.

#### RECOMMENDATIONS

(1) That the legislature provide an independent investigation agency assigned to the Division of Elections of the Secretary of State. This agency must have subpoena power and the authority to investigate all political campaigns. Such an agency would provide two benefits: A permanent group to continually police elections and to remove campaign investigations from the political sphere. When prosecutable violations are found, they should be turned over to the appropriate State Attorney.

(2) The present election law fails to impose any responsibility on the candidate that can be meaningfully enforced by criminal prosecution. For example:

(a) Section 99.161 (2) prohibits persons from making political contributions in excess of certain amounts. However, a candidate is not prohibited from accepting contributions in excess of the maximum.

(b) Section 99.161 (8) requires the duly appointed campaign treasurer to make accurate reports of contributions and expenditures. The statute imposes responsibility on the candidate for the accuracy and veracity of the reports. However, in the case of State v. Buchanan the Court of Appeals vitiated the efforts of the State to hold a candidate criminally responsible for a false report filed by his treasurer. Therefore, unless a candidate happens to be his own treasurer, he cannot be prosecuted for false reports of contributions or expenditures.

We recommend that the election law be amended to remedy the foregoing defects. Public policy requires that the candidate bear the major responsibility for conducting his campaign. The candidate must be held liable for false campaign reports. A provision should be included in the election law requiring the candidate to review and countersign the financial reports to verify their accuracy. Further, if it is unlawful for certain persons to make contributions or to contribute in excess of a specified amount, it should be unlawful for the candidate to accept them.

(3) Section 99.161 (2) (e) and Section 99.172 (1) both prohibit the payment of money for the privilege of speaking at a political meeting. However, the former section is a misdemeanor and the latter is a felony. This ambiguity should be remedied.

(4) Section 99.161 (11) was amended July 1, 1970, to require candidates for municipal office to file reports. However, the amendment does not indicate whether other sections of the election law apply to municipal elections. Section 104.45 states that a municipality may adopt the election laws upon official approval by the governing authority. The obvious question is whether the law covers municipaliti

which have not adopted the State election code.

(5) Section 99.161 (3) (b) permits a candidate to have an official campaign depository in each county in which a campaign is conducted. This makes investigation into the finances of a state-wide campaign extremely difficult. We recommend that a candidate be permitted to have only one campaign bank account.

(6) We feel that requiring campaign contributions to be by check is impracticable and unenforceable. However, we recommend that the law require the candidate to give a receipt for cash contributions and a record of the receipts be kept for a period of four years.

(7) Section 104.28 states that whoever knowingly makes a false statement or report provided for in 99.161 shall be subject to the penalties provided for the crime of perjury. However, the only report the law requires a candidate to personally file is provided in Section 99.021 (11), wherein the candidate is required to submit a sworn statement of contributions and expenditures incurred prior to the time of qualifying and since the last preceding general election. Therefore, if the initial report is false, prosecution must be commenced under the general perjury statute and not the election law. We recommend that Section 104.28 prohibit the filing of false reports required by any provision of the election law.

(8) Section 99.161 (2) (e) prohibits certain prequalification expenditures, however, this section is ambiguous. For example, certain expenditures, such as advertising, are expressly prohibited. The Statute then provides that a candidate can reserve but make no use of advertising time and space prior to qualification. The statute further provides that a person can reserve but make no use of office facilities prior to qualification. However, the use of office facilities is not

expressly prohibited in the statute. Therefore, the statute is not clear regarding the opening of a campaign office prior to qualification.

(9) Section 99.161 (6) (b) prohibits a candidate from incurring expenditures in excess of certain amounts. We suggest that this section would be more easily enforceable if the expenditure limits referred to the public media expenses. The statute should be amended to require the media to require payment in advance for advertising and to report all income gained through political advertising to the Secretary of State. Modern day campaigns essentially rely on media advertising and this suggested change would provide an expeditious way to police the spending limitations in political campaigns.

(10) A reasonable limitation on spending based on the number of registered voters should be established and made enforceable.

A meaningful, enforceable election law is as essential to our form of government as a free and secret ballot. If we are to retain a democratic way of life, substantial reforms and revisions in the election laws must be given the highest priority.

MIAMI BEACH CONVENTION HALL INVESTIGATION

The investigation into the operation of the Miami Beach Convention Hall, commenced by our predecessors, was continued by this Jury.

Scores of witnesses were interviewed; thousands of pages of sworn testimony were taken and analyzed. Financial records were analyzed and accountants reports were received and studied.

Irving Ducoff, the Convention Hall Manager, who was convicted on September 28, 1971 of violating a section of the bribery statute in connection with the performances of the Ringling Brothers - Barnum & Bailey Circus, was indicted by this Jury for the same offense in connection with the Boat Show. Other testimony received by this Jury demonstrates that Ducoff received other and more substantial pay-offs in connection with the performance of his duties.

An independent firm of certified public accountants was employed to assist the State Attorney and the Grand Jury. Spot checks made by the auditors and the City of Miami Beach's internal auditor, suggest the wisdom of the conduct of a complete external audit of the convention hall operation to be authorized and paid for by the City of Miami Beach. Money saved for the City as a result of this investigation will more than pay for the audit and the probability of preventing future losses more than justifies the expenditure.

Insufficient internal auditing procedures have resulted in substantial losses. For example, Sheldon's Caterers reported gross sales of \$156,788.99 to the State of Florida and gross sales of \$68,787.00 to the City of Miami Beach for the same affairs. Sworn testimony demonstrates that while the City was losing approximately

\$9,370.00 by this under-reporting the Convention Manager received over \$7,000.00 in pay-offs from the same source. As a direct result of this investigation, Sheldon's Caterers has agreed to make restitution to the City.

The indictment of Councilman Herbert Magnes and prominent builder and former Councilman, Robert L. Turchin, for violation of the conflict of interest laws was another result of this investigation into public corruption in the City of Miami Beach.

We recommend this investigation be continued by our successors.



## FRATES REPORT

After one year's efforts by a broad cross section of citizens of this community, a report commonly known as The Frates Report was compiled.

This report embodies specific recommendations, to wit:

1. Strong Mayor form of Government.
2. Ombudsman.
3. Zoning Review Board.
4. Commissioners to be elected by Districts.

On September 8, 1971, the Grand Jury, after hearing from the entire County Commission, issued an interim report urging the proposed governmental changes be put on the ballot in March of 1972 to enable the voters of Dade County to express their preferences on the proposed changes. We now reaffirm that recommendation.

## YOUTH HALL INVESTIGATION

Once again the situation surrounding the Youth Services Department has come under investigation by the Jury. As a result of testimony and many hours of investigation by the Public Safety Department and State Attorney's Office, eleven indictments were returned on charges ranging from sexual abuses, use and sale of drugs, aiding in escapes, drinking on the premises and fraternization between guards and inmates. In this regard, we note that in addition to the taking of testimony from seventy-five witnesses, all those persons whose testimony resulted in indictments were given lie detector tests. In each case their testimony was supported by polygraph examination.

As a result of the latest investigation, once more the general situation of Youth Hall and Kendall Home is found to be shocking.

Shocking is a mild word. We have heard testimony of sadistic beatings, forced sexual encounters, and a range of incredible abuses that sound more like a prison out of the dark ages instead of a public institution of the seventies.

We have heard tales of young girls being forced to perform all sorts of perverted acts, young boys led into homosexual experiences that undoubtedly have scarred the victim for life.

In short, Youth Hall and Kendall Home are scenes of barbarism and sadism, not rehabilitation and reform.

But all this has been heard before. We reiterate it again simply to make sure all know it all still goes on under our noses.

Our outrage is overcome only by our frustration and we note this to draw attention to the fact that this situation of neglect, indifference and culpable negligence is not new.

Without belaboring the entire sorry and tragic history again, we note that certain procedures of hiring and management have been altered on direct order of County Manager Ray Goode. He also has asked for an internal affairs unit within the county government. We urge the adoption of such a unit.

We can only trust that perhaps this time the Youth Services Department can be attended to and that we have seen the end of what has been the most deplorable situation in Dade County.

We urge the incoming Grand Jury to monitor what should be the complete revamping of the entire Youth Services Department.

PORT AUTHORITY INVESTIGATION

We recommend that the next Grand Jury continue certain areas of the investigation of the Port Authority that we initiated.

B. A. M. M.

B.A.M.M. - BLACK AFRO MILITANT MOVEMENT is a terrorist organization set up and dedicated to violence. Witnesses appeared before us and their testimony reveals that this group is responsible for the bombing of the University of Miami Computer Center on May 5, 1970. The persons responsible for this crime have been indicted and convicted in the Federal Court. Testimony further proves that B.A.M.M. was responsible for the fire bombing of the Allapattah 5 & 10 on May 13, 1970 and the fire bombing of Dorsey Junior High School on May 20, 1970. Based on this testimony we have returned two indictments charging the sixteen individuals responsible for these senseless acts of violence.

Our investigation has disclosed that while this organization has enjoyed a certain degree of acceptance in some circles, in fact its covert activities have been terrorist in nature. Each member of B.A.M.M. is given a "Swahili" name which is supposed to correspond with a member of the Mau-Mau uprising in Kenya. The policy making section of the organization is known as the Central Committee and the activist section is known as the "Simba Lions". The prime personality and most well known leader is Al Featherston, who was the Lt. Governor nominee of the New Party Gubernatorial ticket in the 1970 Florida elections.

It is our feeling that the subversive purpose of this organization and its activities are such that they should be exposed to this community. We urge the Dade County Public Safety Department and the State Attorney's Office to continue this investigation.

INVESTIGATION OF THE TAX ASSESSOR'S OFFICE

Our investigation of the Dade County Tax Assessor's Office and its methods of assessing property in Dade County, has led us to the conclusions that the 1970 Real Property Tax Roll contains substantial inequities and lacks uniformity. Some of the matters leading to this conclusion are as follows:

1. Judge Thomas E. Lee, Jr., in the case of Miami Board of Realtors vs Metropolitan Dade County ruled that the 1970 assessment roll is not equitable and uniform as demanded in the statutes. These inequities remain imbedded in the 1971 tax roll.

2. The reported sales prices of Real Property in Dade County indicate a substantial variance between the sales prices and the assessments.

THE ASSESSOR'S INABILITY TO PRODUCE A UNIFORM AND EQUITABLE ROLL IS DUE LARGELY TO THE FOLLOWING:

1. An insufficient number of professionally trained personnel.
2. Failure to fully follow legislative mandates as set forth under Article VII, Section 4 of the Constitution of the State of Florida and Section 193.011, Florida Statutes 1970.
3. Failure to physically inspect sufficient numbers of properties in all categories makes present records incomplete and inaccurate.
4. Too great a reliance on "Bricks and Mortar" method of assessment and too little on market indicators.
5. Failure to achieve the capability within the department to properly develop and apply Market Criteria.

Other areas of concern that came to our attention during our investigation were:

1. A frequently inflexible attitude and policy with regard to handling taxpayer complaints results in an unwarranted expenditure of time and expense by the taxpayer and the County in seeking relief at both the administrative level and in the Courts.

2. There is little evidence that the Assessor's methods have basically changed since the advent of: (A) Florida Statute 193.011 which spells out the eight (8) factors which the Legislature requested the Assessor to follow, and (B) the Florida Supreme Court Case of Walter vs Schuler.

3. Failure to establish a continuing program to advance the education of the existing staff.

4. There will be a continuation of the present inequities if the information from the present inaccurate data is converted into the planned computerized tax assessment system.

WE ARE OF THE OPINION THAT THE ONLY WAY AN EQUALIZED TAX ROLL CAN BE ACHIEVED IS TO IMMEDIATELY IMPLEMENT THE FOLLOWING:

1. The present Tax Roll must be completely reassessed, as quickly as possible, recognizing that this is a two to three year program. Such program must include a complete reinspection of all improved properties.

2. A reassessment program must be instituted immediately using the consulting services of an objective organization such as The International Association of Assessing Officers.

3. The Assessor should employ all eight (8) factors in Section 193.011 of the Florida Statutes before establishing final assessments, where applicable.

4. In order to implement the reassessment program, qualified local real estate consultants and appraisers should also be utilized, but in no event should the consultants' function be permitted to overcome the ultimate responsibility of the Tax Assessor for the final Tax Roll.

5. No information should be fed into the computer until the property is reassessed and the new assessment complies with all appropriate criteria.

6. A definite and continuing program should be instituted as quickly as possible to train and educate the staff.

The County Commission is urged to continue to provide the funds necessary to bring into being an equitable and uniform Tax Roll.



## THE WATER CRISIS

Concerned about the growing crisis in the quality and quantity of our fresh water supply, this Grand Jury heard testimony from a number of experts, including ecologists, lay conservationists, federal engineers, hydrologists, farmers and county officials.

Although there was little dispute about the extent of our water problem in South Florida, it was also clear there has been very little cooperation between the agencies responsible for its solution.

In brief, this Grand Jury heard many experts testify that:

1. The water table in Dade County has declined to a critically low level. :

2. The Biscayne aquifer is no longer able to provide unlimited fresh water for the population.

3. A large part of our fresh water supply is run off to the Ocean through a network of flood control canals.

4. The wetlands watershed on which we depend has been diminished drastically through continual drainage for development.

5. A serious salt intrusion has resulted from the lowered fresh water table and the cutting of canals through our limestone ridge.

6. There continues a massive introduction of harmful nutrients and pesticides into Biscayne Bay through the canal network.

7. Continued unplanned development, and the subsequent wetland drainage, has resulted in a lowered water table for the entire population.

As a specific case symbolic of the whole water problem in Dade County, this Grand Jury looked into the matter of canals C-108, 109, 110 and 111 in South Dade.

The criteria upon which these and other canals were constructed, was based upon the master canal plan of 1949. At that time, after a period of serious hurricane flooding in Florida, the Central and South Florida Flood Control District (FCD) was founded. Its goals were primarily flood control, drainage, and the storage of water for agricultural purposes.

The local agency whose responsibility it is to work with the FCD is the Dade County Department of Public Works. Its function is to cooperate in the design, operation and maintenance of canals under the same limited criteria mentioned above; that is, to insure against hurricane flooding and to provide adequate water storage for agriculture.

None of these agencies have, in our view, made any significant effort to revise the outdated criteria they have been operating under for twenty years.

The continuing construction of canals, as manifested in C-108 through 111, has had the effect of:

1. Causing significant ecological change.
2. Running off our fresh water to the Ocean.
3. Inviting the intrusion of salt into our fresh water table.

At no time have these agencies so vital to our water supply, the U. S. Army Corps of Engineers, the Flood Control District, and the Dade County Department of Public Works, done what appears to us to be elementary in the best interests of the public they are paid to serve:

1. They have not made any major revision of the master canal plan since 1949.

2. They have not undertaken significant studies of the effects of their canals upon either the quality, or the quantity, of our fresh water supply.

3. They have continually failed to communicate intelligently with each other, other professionals such as the University of Miami, and the general public at large; to the extent that the public had to rely on watchdog conservationist groups to become aware that there was any water problem at all.

#### RECOMMENDATIONS

All governmental agencies, whether federal, state or local, are subject ultimately to political decisions. It is therefore basically incumbent upon the body politic -- the registered voters of Dade County -- to insure that their elected officials look after the people's interests in their funding, supervision and charges to these public agencies.

In the case of the federal government, we urge our fellow citizens to demand and expect of our elected members of the U. S. House of Representatives and the Senate that they require a full accounting by the U. S. Army Corps of Engineers of its policies in Florida as they relate to the construction of canals, flood control structures and other matters which relate to our precious water supply.

Regarding the Central and South Florida Flood Control District, we urge our fellow citizens to demand and expect of our Governor, and of our elected members of the Florida Legislature, that they undertake a thorough study of the responsibilities and capabilities of the FCD, to considering whether this agency has served its original

purpose and should thus be disbanded, to be replaced by a relevant, professional agency whose responsibilities would encompass the protection of our water resources.

With reference to the Dade County Department of Public Works, we urge our fellow citizens to demand and expect of our elected members of the Dade County Commission, that they conduct a thorough survey of this department, including its *raison d'etre*, its policies and its interaction with other agencies, in particular the Dade County Planning Department

HIALEAH POLICE DEPARTMENT

On June 29, 1971, we filed an interim report in which we found that the Hialeah Police Department was understaffed, under-equipped and undermined. Since that time Hialeah Police Chief Alden Berry has begun a program to restructure the police department, to increase the personnel and equipment, and to improve the morale of the entire department.

Our lengthy and intensive investigation has resulted in the indictment of three Hialeah Police Officers for criminal wrongdoing in connection with their official duties.

We also must note that in spite of the apparent good efforts of Chief Berry, there still remain in command positions in the department men who acquiesced to the near collapse of the department. For this reason, we urge the next Grand Jury to continue to scrutinize the performance of the Hialeah Police Department to make certain not only that the department is efficiently and effectively operated, but also that the department is devoid of corruption.

We must, however, make clear that any satisfactory and far-reaching change in the police department of Hialeah ultimately must rest with the citizens of Hialeah, not the Grand Jury.

## CONFLICT OF INTEREST

We have investigated several conflict of interest charges against public officials in our community. During the course of our investigation, we had occasion to review with the State Attorney and his assistants the various conflict of interest laws enacted by our Legislature in the past few years. We believe that Chapter 112 of the Florida Statutes is a comprehensive and fair conflict of interest law. However, we believe that Section 839.07 of the Florida Statutes requires some changes. The following three elements must coalesce in order for there to be a violation:

(a) The accused person must be a public official.

(b) The public official must be a "party to the letting." This means that the public official must vote on the specific contract.

(c) The contract must be for a "public work."

In order to strengthen our conflict of interest laws, we recommend the following:

1. The term "public work" should be deleted from Section 839.07 and the violation should be in connection with any contract in which the public official voting on such contract has an interest.

2. There are many public boards whose members are appointed by elected public officials who control the composition, and therefore, the policy of such board, but who could never be a "party to the letting" of a contract entered into by such board. We recommend legislation making it unlawful for a public official to be interested in any contract with a public board over which such official has the power of appointment.

3. Many public boards deal with substantial sums of money which must be placed for deposit, and which can be placed for deposit without bearing interest. We recommend legislation prohibiting any public official, or board on which such public official sits as a member, or over which such public official has the power of appointment, from transacting any business with a financial institution in which such official has an interest by way of ownership or employment.

4. We also recommend legislation prohibiting the appointment by a public official of any person with whom that official has a distinct and defined business interest.

5. Finally, we recommend legislation making it unlawful for a public official to have an interest in any business which sells services or supplies to any appointee, employee, agent or servant of a board of which such public official is a member.

It is clear that any solution to the broad conflict of interest problem in all of its manifestations is dependent upon the willingness of the government and the public to eradicate it. Statutory prohibitions alone will not suffice to prevent the occurrence or suspicion of the problem. The ideal solution lies in governmental officials acquiring true dedication to the concept that "a public office is a public trust."

THE JUSTICE OF PEACE SYSTEM

Prior Grand Juries have been consistent in their criticism of the Justice of the Peace system. They have condemned it as corrupt, archaic, unwieldy, having outlived its usefulness, failing to provide full time justice, and having judges who engage in the private practice of law, including the practice of criminal law. We join in those findings and could enlarge upon them if it would serve any useful purpose.

We see no point in belaboring the criticisms of the Justice of the Peace system, which should be well-known to every citizen of our community. Suffice to say that the Justice of the Peace system continues to exist because of the political influence wielded by those holding that office. We renew the call for elimination of the system, but we are not optimistic that our recommendation will have more "political clout" with the Dade legislative delegation and in Tallahassee than the Justices of the Peace enjoy.



ACKNOWLEDGEMENTS

This Grand Jury wishes to acknowledge the patience and wisdom of Circuit Court Judge Jack A. Falk, whose initial charge to us was a constant guide throughout our deliberations. His assertion of the Grand Jury's responsibilities left no alternative to the pursuit of matters that affect the common welfare of all our citizens, and we tried to meet that responsibility without fear or favor.

Special praise is due to State Attorney Richard E. Gerstein and his Assistants, especially N. Joseph Durant, Jr., John B. Orr, Jr. and David Goodhart. Their professionalism and competence made it possible for this Jury to carry out its capital crime responsibilities while conducting many independent investigations at the same time.

Commendation is due the many law enforcement personnel who worked with this Grand Jury, and in particular the following:

Louis Capaforte and Thomas Bardon of the Hialeah  
Police Department

Assistant State Attorney David Drawbert

Officer Thomas Stone of the Public Safety Department

During the term of this Jury there were a number of private citizens who appeared before us to testify, several times at the risk of reprisals to themselves and their families. We commend these brave citizens and encourage others to follow their example.

Our special thanks go to Eleanor M. Robinson, who underwent a difficult operation during our term, but returned to resume her highly competent office as Administrative Assistant. We owe thanks as well to Helen P. Crane, a former Juror who stepped into the breach to assist us during Miss Robinson's absence. Throughout

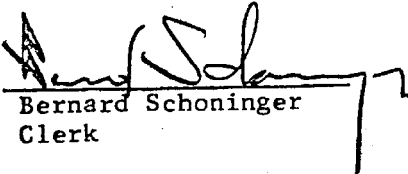
our term, our bailiff, Wallace D. Culbertson, Jr. was diligent and helpful.

Respectfully submitted,



David H. Pearson, Foreman  
Dade County Grand Jury  
Spring Term 1971

Attest:



Bernard Schoninger  
Clerk

Dated: November 9, 1971