

**GRAND JURY
REPORT**

Spring Term
A. D. 1949

FOR

**DADE COUNTY
FLORIDA**



Filed
7 NOVEMBER 1949

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

Spring Term, A.D. 1949

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Final Report of the Grand Jury

TO THE HONORABLE JUDGES
OF THE CIRCUIT COURT OF THE
ELEVENTH JUDICIAL CIRCUIT
OF FLORIDA:

We, the Grand Jury, were duly impaneled on the 10th day of May, Spring Term, 1949, by the Honorable Stanley Milledge, one of the Judges of the Circuit Court of the Eleventh Judicial Circuit of Florida.

CAPITAL CASES

We have considered six capital cases and have disposed of these cases by the following action:

STATE OF FLORIDA vs.
JEFFIE L. McCLURE
Indicted for Murder in the First Degree

STATE OF FLORIDA vs.
MACK ARTHUR BAILEY
Indicted for Murder in the First Degree

STATE OF FLORIDA vs.
ARSTELL GEORGE JOHNSON
Indicted for Murder in the First Degree

STATE OF FLORIDA vs.
ALBERT JONES
Indicted for Murder in the Second Degree

STATE OF FLORIDA vs.
MILTON E. RENEGAR
Indicted for Murder in the Second Degree

STATE OF FLORIDA vs.
NICK BONURA
Indicted for Fondling and Lewdly and
Lasciviously Assaulting a Child

On the 28th day of July, 1949, one of the defendants indicted by this Grand Jury for Murder in the first degree, Jeffie L. McClure, filed in the Circuit Court her motion to quash the said indictment on the ground that the said indictment returned by this Grand Jury on the 23rd day of June, 1949, was null and void, for the reason that this Grand Jury, consisting of eighteen jurors as provided for by F.S.A. Chapter 905, had been discharged by operation of law, Chapter 25554, Laws of

Florida, 1949, which became effective the 13th day of June, 1949; said Chapter provided that in all counties having a population of 315,000 or more according to the last State or Federal Census, a grand jury should consist of twenty-three jurors and further provided that all laws in conflict therewith be repealed. There was no saving clause in Chapter 25554, Laws of 1949 expressly providing that this current grand jury should remain in session.

That thereafter the said motion to quash came on to be heard before the Honorable George E. Holt, one of the Circuit Judges, who entered his opinion and order on the 24th day of August, 1949, denying the relator's motion to quash the said indictment and declaring Chapter 25554, Laws of Florida, 1949, as being unconstitutional.

Whereupon, the defendant, Jeffie L. McClure, filed her petition for writ of habeas corpus in the Supreme Court, which said writ was issued on the 13th day of September, 1949. And that at the time of the filing of this report the said cause is still pending and undecided in the Supreme Court of the State of Florida.

Based upon these facts and circumstances and uncertainties, the State Attorney, Glenn C. Mincer, informed this Grand Jury that until the Supreme Court had written an opinion deciding the legality of this Grand Jury he would not present any additional capital cases.

PRELIMINARY

During our preliminary investigation, we studied reports of previous Grand Juries, which indicate that certain undesirable and unhealthy conditions have existed in this community over a considerable period of time. As citizens we were aware of many of these conditions and their existence has been corroborated by testimony of witnesses who appeared before us and satisfied us that they were qualified and competent to testify and that they knew whereof they spoke. We could not see any purpose in repeating the work of our predecessor juries to discover officially and at great length that crime and corruption do exist here. This point has been well documented in the past but apparently discouragingly little, if any, real improve-

ment seems to have resulted from such exposures. It was thus apparent that our problem was not how to establish that certain unalubrious conditions exist, but rather what could be done about them. In casting about for the answer to this question, we quickly learned that while a Grand Jury is considered to be "all powerful," there are many factors involved which tend to handicap such a jury and to prevent it from actually being a cogent agency for law enforcement. Some of these factors are:

Lack of a reporter for the taking of testimony, making it necessary that the Jurors depend solely upon memory in drawing up their reports.

Lack of funds for the employment of investigators.

Limitations on the time the Jurors can devote to the affairs of the Jury over an extended period, due to the necessity of earning their livelihood.

These coupled with the fact that the Jurors themselves are laymen, make it difficult for a Grand Jury to go about accomplishing the desired end.

This Grand Jury viewed with approbation the action of the 1949 Florida State Legislature in its passage of certain laws which were intended to strengthen the present Grand Jury system. Unfortunately, however, because of certain technicalities involved in these laws, our position was not strengthened as a consequence, but instead our investigations were most severely handicapped. The paramount issue affecting us is now pending a hearing before the State Supreme Court but apparently because of the time element, a decision will not be rendered until after our term has expired.

CONGREGATION OF CRIMINAL ELEMENT IN OUR COMMUNITY

There is present in our community a large number of individuals of unsavory reputation. These persons are criminals of national stature. Their records show that their activities have occurred in many of the cities throughout our country. What has brought them here to concentrate among us we do not know. Perhaps the mild climate which has attracted so many Americans to settle here has also attracted them. Perhaps our

community has attracted them as a refuge or haven, where they have not committed any criminal acts, and so they feel that they are immune from interference by our local law enforcement agencies. It would be un-American for us to want to harass a man merely because he has a criminal record. If he is wanted by the police somewhere, he should be made to stand trial and pay the penalty for his crime. If he is not wanted, or has already been discharged from an institution, he should be as free to move around as any other citizen. However, the fact remains that our community is fast becoming the national capital wherein the so-called leaders of the criminal element of numerous communities through the land are congregating.

These men are settling among us under the cloak of respectability. Their passion here is complete anonymity. They purchase and operate legitimate business enterprises as evidence of their respectability among us, and they become our neighbors. We have to thank the ceaseless efforts of the Miami Crime Commission for incessantly stabbing through the gloom of obscurity in which these individuals seek refuge, and illuminating them with the searchlight of identification as to who they are and what the danger is to our community.

The history of these individuals shows that they live by violence, and in that lies their danger to our community. At present they may not appear to be engaged in illegal activities here, and instead they appear to be inactive, as would a retired businessman, or they may appear to be engaged in a legitimate business activity. Yet, the record shows that they have continued to maintain their ties with the gangs in the communities from which they originate. Also, by the nature of their predilection to violence, they are a menace to the businessman of the community. There is no doubt but that they would resort to the gangster strong-arm methods to overcome the ordinary law abiding citizen who would have the misfortune to best them in competition for business.

They attract hangers-on and henchmen, who do not have their affluence, but who do desire to have a supply of money for ready and easy spending. These men resort to crimes of violence, and when they are in our midst, our crime rate soars to such an

extent that our local law enforcement agencies cannot cope with it.

We believe that the activities of these so-called important gangsters and racketeers are beyond the scope of our local law enforcement agencies. We feel that the Federal Government would find it a very profitable field to investigate these people regarding the sources of their income and the origins of their wealth by which they can live in such ostentation among us and purchase valuable and expensive properties and businesses. We feel that proper investigations of these individuals would reveal violations of Federal laws just as investigations in the past have done with other criminals who rose to wealth and notoriety. We recommend that a coordinated investigative body from the various Justice and Treasury Department units be established here to look into these persons' activities.

GAMBLING IN DADE COUNTY

Law enforcement in Dade County has been and still is confronted with the most powerfully organized, most insidious form of gambling, namely, book-making. We could elaborate on this subject in connection with our investigation but we feel it would only be a repetition of what is contained on the subject in the admirable report of the Grand Jury for the Winter Term of 1947.

After questioning witnesses we found that during the summer of 1949 laxity in enforcing gambling laws had not changed much relative to previous periods. At the time we made an investigation into gambling activities in Dade County it was revealed that bookie operations in the City of Miami and the City of Miami Beach were running on a sneak basis, while the "County" was wide open to anyone desiring to visit the well appointed air conditioned places set up for card games, dice games, roulette, and book-making. The "County" is a term applied to the unincorporated areas which only the Sheriff and the Constables have law enforcement powers. Book-making in the summer time is done on a sneak basis simply because the "heat" is usually on and the business is not as lucrative as it is during the winter months.

In Miami Bolita and the Numbers Racket

were flourishing. There appeared to be little effort to curb these gambling operations, although they were being carried on under the eyes of the police.

Conditions apparently have not changed since the writing of the 1944 Grand Jury report. There is too much laxity and indifference toward law enforcement with respect to gambling and vice resulting from politics and graft. The only means by which the people of Dade County can be protected against the influence of organized gambling and racketeers is by impartial and efficient enforcement of the laws. If the people of Dade County desire that organized crime be destroyed it can be destroyed. The facilities required are available in the choice of men they elect as sheriff and city commissioners. All of this, of course, has been said before.

We do not presume to argue the question as to whether or not gambling is morally good or bad. The fact that a particular law has been enacted and is on our statute books should require its complete and impartial enforcement by the agency or officer charged with its enforcement. It should not be within the discretion of public officials to adopt a "liberal" or a "closed" policy.

Although we recommend that a Grand Jury be kept in continuous session, it seems deplorable that the people should have to maintain constant vigilance over law enforcement officers in order that the gambling laws, among other laws, be enforced.

HANDICAPS TO EFFICIENT GRAND JURY PROCEDURE

In the course of our activities as a Grand Jury we have been made keenly aware of the division of responsibility for the enforcement of the criminal laws in our community. There are the Sheriff's department and the different Police departments. There are the County Solicitor's office and the State Attorney's office. Such division of responsibilities leads readily to excuses for avoidance of responsibilities; to a "hands-off" policy of matters which can be claimed to be within the jurisdiction of another official; to a cynical attitude that "it is not within the province of my office or department to investigate so and such"; to a rendering impotent our Grand Jury system.

There are some holders of public office who have an idea regarding the Grand Jury which is not consistent with the traditional role played by the Grand Jury. These officials believe that the Grand Jury should confine itself to inquiries of crimes of a capital nature only, for they reason that persons are tried on indictments only in capital cases. Although this may relieve the Grand Jury of the burden of hearing the numerous other cases involving felonies of lesser degree than capital, it also can tend to nullify the results of the Grand Jury's investigations regarding matters which involve the commission of such other crimes. Any indictment handed down by the Grand Jury on such lesser matters will not be prosecuted by the prosecuting attorney who might have aided the Grand Jury in finding such indictment. Instead, as matters now stand, it will go to another official who will have to issue an information, on which the accused will need to be tried. If this official does not see fit to issue the information, the Grand Jury's work will have been for naught. This has happened in the past.

It is some of these lesser crimes which plague our community. Charges of corruption of our law enforcement agencies, and charges of malfeasance and misfeasance of our office holders arise from time to time. The public officials who share this philosophy would have us believe that this is no concern of the Grand Jury. They cynically argue that the voters deserve to get the type of public official they elect, and if they are not satisfied they can vote him out of office in the next election. Meanwhile, of course, he should be allowed to do as he pleases at the community's expense and to its great harm. It is the idea of rascals, who we as voters sometimes unfortunately and to our sorrow, put into office. Under the present system the Grand Jury is hamstrung in its efforts to look into matters concerning public officials.

We were convened and told that we would be presented with capital cases as they arose and that we could investigate other matters as we saw fit. In theory the Grand Jury is powerful as it is the direct instrument of the citizens. In actuality the power is that of the waterfall. Machinery is needed to direct and employ the power of the Grand Jury, as the dynamo is needed for the waterfall.

We feel that there is a necessity to consolidate the duties and responsibilities for the enforcement and the prosecution of the criminal laws in one office instead of in the two offices of County Solicitor and State Attorney as at present. This single prosecutor should be the one who works with the Grand Jury and who should prosecute all of the indictments the Grand Jury renders, both capital and otherwise. This prosecutor should be the implement through which the Grand Jury conducts its investigation. He should have available a staff of police investigators whom he can direct to search for the presence of evidence concerned with the Grand Jury's deliberations. The Grand Jury should be able to hire such special investigators as it deems necessary, they to be paid out of the \$30,000 annual fund which the recent statute has provided for the Grand Jury. It should not be necessary for a Grand Jury to do the leg-work on investigations, for that calls for skill and experience, which the ordinary citizen who is called for Jury Duty does not ordinarily have. And then, of course, we come to the basic thing. It will be up to the citizens to elect a prosecutor who will be capable, fearless and honest.

SUGGESTIONS FOR IMPROVEMENT OF THE GRAND JURY SYSTEM

This Grand Jury in common with many of its predecessors experienced some difficulty in procuring a quorum for our various sessions. As has been the case with past Juries, ours was composed of 18 members, 15 of which constituted a quorum. This, of course, gave us the usual leeway of 3. However, shortly after we were impaneled, the Court permanently excused one of our members from attendance at all subsequent sessions. This left us with only 17 active members and due to illnesses and personal emergencies, it was difficult at times to obtain the necessary 15 in attendance.

This experience points up the appropriateness of increasing the membership of the Grand Jury from 18 to 23, with retention of the requirement that 15 constitute a quorum as called for in a bill recently enacted by the State Legislature. Regardless of the fact that this law has been held invalid by the Circuit Court and a decision

thereon is now pending before the Supreme Court, we concur in the basic thinking which motivated in its enactment.

Numerous Grand Juries in the past as well as various other groups have long recommended that changes be made in the method of selection of Grand Juries. In this we heartily concur. The present system of selection from the list of petit jurors drawn for a particular term of Court to our mind is woefully inadequate. It results in the impanelment of a group of jurors who have no advance warning that they are to serve as Grand Jurors and who, as a consequence, are not as well prepared to discharge their responsibilities as should be desired.

We feel that the selection system should be changed; that Grand Jurors should serve on a voluntary basis; that they should submit their name with their qualifications in an application to the Clerk of the Circuit Court and in their application, they should agree to serve when called. The Jury Commission should have the applicants thoroughly investigated and only those found qualified should be eligible to serve. A list of at least 500 such qualified applicants should be maintained and Grand Jurors selected from this list by lot. We also feel that the selection of names for a Grand Jury should be made at least two weeks prior to prospective date of their impanelment, and that those selected should be notified at the time of their selection. This would give them time to arrange their personal affairs so that they could devote more time to their jury duties and also time in which to acquaint themselves with their duties, responsibilities, prerogatives, etc. In connection with the latter point, we strongly recommend that a manual for Grand Jurors be prepared and made available to the individual Jurors at the time of their selection, so that when they are impaneled, valuable time will not be lost while they endeavor to learn some of the details of Grand Jury procedures.

POLICE

We feel that we cannot commend the officials in charge of the Miami Police Department, whether they be the Chief of Police, the City Manager in his capacity as Director of Public Safety, or the City Commission for

permitting bickerings and feuds to exist in the Police Department. To permit the existence of such things is evidence of a cynical attitude toward enforcement of our laws and indifference toward the Department's morale. It shows that the Department is not functioning as a team, but rather for the personal aggrandizement or enrichment of certain of its members. Such actions set poor examples for the young men who enter the Police Force. The low esteem to which the Police Department falls in the minds of the citizens is a poor reward for the honest men who have devoted their years of service in the Department.

We believe that the majority of the police officers in Dade County are honest, reliable, and energetic but that there are some men who still feel that they should accept gratuities, although the pay in the various departments is considered good. It appears that a few have shown evidence that they are living in a manner, or have purchased property of a value far beyond that which their earnings would appear could be possible. We believe our successor Grand Jury might desire to look into this matter.

Evidence presented indicates that the Miami Police Department is not sufficiently manned, especially during the winter months when the police work is the heaviest, and we recommend that this condition be corrected.

It appears that the civil service system can be an obstacle to efficient law enforcement in that it has such liberal powers over the hiring and firing of police officers. The system should be designed to protect career employees but not to act as a cloak to hide behind for those subject to punishment and discharge because of misfeasance and neglect of duty.

The Sheriff's office is to be censured on its laxity in locating, or rather failing to locate all the persons who were to make up the panel from which this Grand Jury was drawn. We believe that too large a percentage of subpoenas were unserved.

We feel that light sentences and fines are not conducive to deterring crime. It is discouraging to good police work when offenders are repeatedly released with a minimum of punishment.

ACKNOWLEDGMENTS

We appreciate the strong charge to the Grand Jury by Judge Stanley Milledge and we regret that subsequent happenings blocked the complete fulfillment of that charge. We wish to thank Judge Milledge for his unsparing time and advice which convinced us of his sincerity in the public interest.

The State Attorney's office handled the various cases presented to this Grand Jury in a very efficient manner. We acknowledge with thanks the assistance and legal advice extended by the State Attorney, Honorable Glenn C. Mincer, and his assistants, John W. Prunty and Harvie S. DuVal.

We wish to commend the police officers who appeared before this Grand Jury for the efficient manner in which they handled their work in each case presented by the State.

The cooperation received from the press was very gratifying and we extend our thanks for the assistance we received from all of the newspapers.

The Crime Commission of Greater Miami extended full cooperation and valuable assistance. We hope that this organization will continue its work in helping to protect Dade County from the evil forces that would weaken and degrade our community.

We feel indebted to the men and women who appeared before us as witnesses for their time and worthy testimony.

It now appears that the SPRING TERM of the Circuit Court of the Eleventh Judicial Circuit will terminate on Monday at midnight, the 7th day of November, 1949, and as there is no reasonable expectation of the Supreme Court rendering a decision prior to that date, this Grand Jury respectfully requests this Court to discharge or recess this Grand Jury, with an appropriate order as the Court may see fit and be advised.

Respectfully submitted,

DADE COUNTY GRAND JURY
SPRING TERM, 1949

By WALTER E. MORRIS,
Foreman

T. THURSTON RITTER
Clerk

DATED the 7th day of November, A.D., 1949.