

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

Fall Term, A.D. 1950

**FINAL REPORT
OF THE
GRAND JURY**

Filed

FEBRUARY 12, 1951

Circuit Judge Presiding

GEORGE E. HOLT

Officers and Members of the Grand Jury

WILLIAM ATWILL, JR., *Foreman*

A. CHARLES KITTEL, JR., *Vice Foreman*

JOHN J. (JACK) HARDING, *Clerk*

JOHN MOBLEY, *Treasurer*

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Official Court Reporter

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HOLMES ALLEN, *Bailiff*

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**FINAL REPORT
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**TO THE HONORABLE GEORGE E. HOLT,
SENIOR CIRCUIT JUDGE OF THE
ELEVENTH JUDICIAL CIRCUIT OF
FLORIDA**

INTRODUCTION

We, the Grand Jury in and for Dade County, Florida, for the 1950 Fall Term of the Circuit Court of the Eleventh Judicial Circuit of Florida, present this final report.

We were empaneled by the Honorable George E. Holt, Senior Circuit Judge of the Eleventh Judicial Circuit of Florida on November 13, 1951. We deeply appreciate the charges and instructions which were delivered to us by the Honorable George E. Holt which were full, complete and educational and gave us an immediate grasp of our powers, duties and responsibilities as Grand Jury men.

Mr. William Atwill, Jr., was appointed Foreman of the Grand Jury and Mr. A. C. Kittel, Jr., as Vice Foreman. The Jury then proceeded to organize and Mr. Jack Harding was selected as Secretary and Mr. John Mobley was designated Treasurer. The Grand Jury held a total of twenty-seven (27) meetings. We have filed three (3) partial reports and this Final Report and have returned a total of twenty-three indictments.

In particular we were impressed by the recitation by Judge Holt of certain portions of the learned opinion of the Honorable Glenn Terrell, Justice of the Supreme Court of Florida in the case of *In Re Grand Jury 11 So. (2) 316*.

We here quote a portion of that opinion in order that subsequent Grand Juries may have ready access to it:

"The oath as here quoted was in substance the same oath that was administered to the jury in the time of Bracton and the statutes limit-

ing their power were in the main the common law of that period. The charge "concerning their duties" must of course be encompassed within the oath and the statutes but it is well known that by their charge trial courts have directed the grand jury to investigate every offense that affected the morals, health, sanitation and general welfare of the county. The charge also goes to the investigation of county institutions, buildings, offices, and officers and directs them to make due presentment concerning their physical, sanitary, and general condition. The grand jury is in other words the guardian of all that is comprehended in the police power of the State. To "inquire of all such matters and things as shall be given you in charge" and "present every offense against the penal laws of the State whether any specific punishment is pointed out or not" warrants this.

This interpretation clothes the grand jury with broad inquisitorial power but no broader than judges have construed them to have since the law was promulgated. It would be a strange anomaly to hold that their power to indict or to recommend did not comport with their power to investigate. There are some things however that are not within the category of grand jury powers. They will not be permitted to single out persons in civil or official position to impugn their motives, or by word, imputation, or innuendo hold them to scorn or criticism. Their investigation must be directed to detecting unlawful offenses; they will not be permitted to become the tool of blocs and groups to pry into personal affairs or to oppress some one. Neither will they be permitted to speak of the general qualification or moral fitness of one to hold an office or position but whether or not a county office is being conducted according to law and good morals is at all times within the jurisdiction of the grand jury to investigate. When they find that the law has been violated, it is their duty to indict but when they find charges made to be without foundation, it is as much their duty to exonerate as it is to indict in the first instance. It is by dispatching in a fair and impartial way matters brought to their attention that the grand jury becomes the buffer between the free citizen and arbitrary power."

Taking to heart the substance of Judge Terrell's words the Grand Jury at its initial organization meetings determined to maintain throughout their tenure of office a fair and impartial attitude and further determined to return indictments only where the evidence presented before the Grand Jury warranted and to exonerate where the evidence was deemed insufficient. In particular it was determined that extreme care would be exercised to see to it that no

indictment was returned by the Grand Jury which did not charge the defendant named in the indictment with the commission of a crime.

LAW ENFORCEMENT IN DADE COUNTY, FLORIDA

The Grand Jury has attempted to make a realistic and comprehensive study of the picture of law enforcement in Dade County, Florida. We realize fully that the security of our system of government and the sanctity of our people and their property depends largely on the manner in which law enforcement officers perform their duties. It is almost a truism that the citizenry obtain from their law enforcement officials the type of law enforcement indicated by a majority of their number and likewise it follows that an aroused citizenry can demand of the officials which they select efficient and strict enforcement of the law.

Law enforcement conditions in Dade County, Florida appear to be on the mend and considerable improvement in the general enforcement picture now appears apparent. We believe that there are a number of factors which contribute to this improvement in the enforcement of the laws. Certain groups of citizens have organized themselves into a vigilant corps constantly weighing publicly the problems of crime and its prevention. Groups of individuals who seek to thwart the adequate enforcement of the laws have been given national notoriety and treated on a national level. The Grand Jurys' meeting continuously have given constant and continuing study to the criminal laws and their application and enforcement in Dade County. Perhaps outstanding of all contributing factors to the betterment of law enforcement has been the complete reorganization of the Sheriff's office under Sheriff Thomas J. Kelly.

We, the Grand Jury, wish to unanimously express our complete and unqualified confidence in the ability, integrity and aggressiveness of Sheriff Thomas J. Kelly. In the brief period of time that Sheriff Kelly has held the office of Sheriff, he has been able to completely reorganize the department and present an efficient staff of the best men available under present conditions

which has served to spearhead law enforcement in Dade County. It is the opinion of the Grand Jury that never before in the history of the County of Dade has there been less illegal gambling than at the present time under the vigilant work of Sheriff Kelly.

We are mindful of the fact that the gambling picture presents just one phase of law enforcement, however Sheriff Kelly has shown an ability to deal with all of the problems of crime and we firmly believe that he should be given every opportunity and full and complete cooperation from all assisting agencies which will permit him to complete his program and policies as outlined to this Grand Jury, because we are convinced that the fulfillment of such a program will earn for Dade County, Florida, a reputation as a leader in the field of crime prevention.

One of Sheriff Kelly's greatest needs at the present time is additional funds with which to employ additional men to augment his staff in the criminal department. We have been advised that the Sheriff has only a meager force of eleven (11) men with which to cope with all crimes which his office is called upon to investigate. The Board of County Commissioners of Dade County and the County Budget Board will render a great disservice to the people of Dade County unless some plan is promptly formulated which will furnish the Sheriff financial assistance to enable him to acquire and utilize the additional personnel which the problems of his office demand.

SEARCH WARRANTS

In our study of the matter of search warrants we have come to the conclusion that this field is one only for experts, requiring years of study and training. It is also apparent that frequently the use of such warrants is a necessary element in complete law enforcement. We urge that all persons dealing with search warrants see to it that the warrants, the method of issuance, the method of service, the return and the subsequent use of evidence secured thereunder are treated with extreme care so that every technical requirement of the law is strictly complied with.

In this connection we also feel strongly that the matter of law enforcement and the prevention of crime should be a profession requiring proper training in the same manner as any other business or profession. It is urged that every effort be made to have police personnel attend law enforcement schools and to receive as much training as possible in their specialized field. Adequate probation periods should be served by recruit officers and commissions as deputies and police officers should be extended only after minimum standards of proficiency, education and training have been attained.

We are also aware that individuals engaged in law enforcement in Dade County do not receive pay commensurate with the responsibilities and duties they are called upon to perform. It is axiomatic that today the quality of any skilled service is governed by the amount of the remuneration available for that service. We feel that it is as important to adequately compensate the professional law enforcement representative as the engineer, the doctor, or the school teacher.

CRIMES OF VIOLENCE

It appears that many investigations of homicide, rape and other serious crimes of violence have lacked adequate investigation by the various police agencies undertaking to investigate such crimes in this county. For instance there have been several crimes of murder, and rape committed in this county which to date are completely unsolved. Furthermore there appear to be a great number of suicides which present questionable aspects and which could be proved or disproved if better investigating and technical facilities were available.

We feel that this problem can be solved by the organization of a central bureau of investigation which will coordinate the activities of all police departments with respect to homicide and crimes of violence. It is logical that this bureau should be centered in the Sheriff's office since the Sheriff is the chief law enforcement officer of the county. This bureau should be headed by a highly trained and skilled specialist in this field of criminology. He should

have at his command a complete criminal laboratory staffed by expert technicians. He should be given the authority to hire his own staff of investigators and this staff should be directly responsible to the head of the bureau. The factor of coordination could be accomplished by requiring all municipalities to immediately report to the central bureau of investigation any serious crime of violence occurring in the County. It would then become the responsibility of the bureau to take over the investigation and to complete it in a scientific manner. We are advised that legislation would be required to establish such a bureau and we therefore hope that the Dade County delegation will seriously consider this great need and draft the necessary laws to create it, place it in operation, and adequately finance it.

GAMBLING

The greater portion of the time of this Grand Jury has been concerned with the consideration of problems involving illegal gambling in Dade County, Florida. We have attempted to treat these problems realistically and we are not unmindful of the fact that gambling in all its forms is a vice that is as old as the history of man, however when that vice is utilized as a great source of illegal revenue and involves representatives of the underworld and public officials and law enforcement officers it becomes a matter of grave public concern and one worthy of the time spent by this Grand Jury.

As stated previously in this report we have come to the conclusion that wide open gambling does not now exist in Dade County, Florida, as unfortunately it has existed too frequently in the past. We are still concerned however with the fact that law enforcement officers are still apparently unable to reach the real operators and backers of gambling interests. The organizers and the owners of the gambling syndicates and organizations still evade the nets of the law.

This Grand Jury is strongly opposed to the use of the laws against illegal gambling as revenue measures. The matter of peri-

odic arrests of small bookmakers and insignificant gaming boys and charging them an established fine makes a mockery of our system of justice. We are pleased to see that there is some trend away from this type of subverted enforcement and we feel that it must be completely eliminated.

Likewise there are still indications that hotel owners and managers and the owners and managers of various other types of businesses are still on a limited scale allowing gambling operations to be conducted on the premises which they own or manage and in some instances are becoming actual partners in the gambling enterprise. We feel that such owners and managers are equally as guilty as the offending gambler and should be dealt with accordingly.

LEGISLATION

This Grand Jury realizes that legislation and additional laws are not a panacea for all of the ills and shortcomings which exist. In fact it may be that to some extent citizens suffer from too many laws rather than too few, however we commend the following suggestions to the legislative delegation representing Dade County with the hope that they can see fit to incorporate these suggestions into their legislative program:

1. The Sheriff of Dade County should be subject to a right of recall by the electors of the County. Also the compensation of the Sheriff's office should be increased and an adequate operating budget should be set up for the Sheriff's office which will permit the establishment of a central bureau of investigation for crimes of violence and the employment of such personnel as may be needed to insure the efficient operation of the office.

2. The offices of the State Attorney and the County Solicitor of Dade County, Florida, should be consolidated in order that the prosecution of all crimes may be centralized in responsibility and in operation in one office. The officer in whom the complete authority for the prosecution of all crimes is vested should be given a staff of

investigators to assist him in his work of prosecution of crime.

3. Public officials should be required at the time that they offer themselves for public service to file a statement with their qualifying affidavit setting forth their net worth and likewise such officials should be required to file periodic income returns during their term of office.

4. Managers and operators of hotels, barber shops, restaurants, bars, grocery stores, mercantile stores and other business enterprises should be deprived of their occupational and other special licenses to transact business in the event illegal gambling enterprises are permitted on the premises in which such business is operated or managed.

5. Racing information by whatever means conveyed, whether by wire, radio, telephone, newspaper or other signaling or communication devices, should be closely controlled, restricted and regulated.

6. Race tracks and other legalized gambling operations should be closely regulated and controlled in order that undesirable individuals may be eliminated as stockholders, officers or employees of such race tracks or other legal gambling institutions.

7. The records of the Racing Commission should be declared to be public records and open at all times for inspection by any member of the public.

8. The recovery of gambling losses should be permitted by individuals who can show that the money so lost in gambling did not belong to the party losing the same, but to the party seeking to recover and that the money was used in gambling and that the loss occurred without the knowledge and consent of the real party in interest.

9. The terms of office of the County Commissioners of Dade County, Florida, should be staggered in order to permit the citizens of Dade County, Florida, to have the benefit of experienced personnel continuing on the Board of County Commissioners at all times.

INDICTMENTS

STATE OF FLORIDA vs.
A. C. BELLAMY (Colored)
Indicted for First Degree Murder

STATE OF FLORIDA vs.
EMMA KIRKLAND (Colored)
Indicted for First Degree Murder

STATE OF FLORIDA vs.
CLARENCE HENDERSON (Colored)
Indicted for First Degree Murder

STATE OF FLORIDA vs.
NAPOLEON EVERETT (Colored)
Indicted for First Degree Murder

STATE OF FLORIDA vs.
JOHN ALBERT PARKS (Colored)
Indicted for Manslaughter

STATE OF FLORIDA vs.
JEROME GLUCK (White)
Indicted for Rape

STATE OF FLORIDA vs.
WILLIE DAVIS (Colored)
Indicted for Rape

STATE OF FLORIDA vs.
LEONARD NATHAN WILSON (White)
Indicted for Statutory Rape

STATE OF FLORIDA vs.
WALTER B. CAREY
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
WALTER B. CAREY
Indicted for Renting House for Gambling

STATE OF FLORIDA vs. LEON BISHOP
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
VAUGHN McKERNON
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
ISADORE GLICK
Indicted for Renting House for Gambling

STATE OF FLORIDA vs.
BEN SHERMAN and JACKIE ALLEN
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
IRWIN QUASHA
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
JOE STRAUS, PHIL SCHWARTZ
and SAM COHEN
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
JOHN OLMO, PHILIP KANE
and ANTHONY C. SWEET
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs.
JOE HELICHER, ABE MOGLIN
and JOHN PEPE
Indicted for
Maintaining a Gambling House

STATE OF FLORIDA vs. PETE MORGAN
Indicted for Accepting a Bribe

STATE OF FLORIDA vs.
JAMES ROBINSON
Indicted for Extortion

STATE OF FLORIDA vs.
HERMAN PINDER and STEVE YARB
Indicted for Conducting a Lottery

STATE OF FLORIDA vs.
MURRAY GOLDBERG
and HERMAN PINDER
Indicted for Conspiracy

APPEARANCE BONDS (BAIL BONDS)
IN DADE COUNTY

Modern apparatus of providing bail bonds is an important nerve center in the system of law enforcement. Anciently one who went bond for another was bound to subject his own person to the Court's verdict if that other did not appear at the trial and the sentencing.

Later, landowners were permitted to obtain an accused's temporary liberty by subjecting their lands to a stipulated forfeit. More recently a system of commercial suretyship has virtually replaced "property bonds." In populous centers an enterprising fraternity of professional bondsmen moves in and about the law courts. Dade County is no exception.

Offices convenient to jails and courts, plus either cash resources or surety company representation, are their rather meagre and necessary visible tools. But their intangible requirements for success are many. Wide and favorable acquaintance among arresting officers is helpful in securing business and in obtaining speedy rearrests when defendants wander. Friendly contacts among prosecuting attorneys might serve to postpone actual forfeitures and minimize financial losses due to estreatures. Indulgent attitudes on the part of the judges would likewise serve bondsmen's interests.

Reputation of a bondsman for "service" spreads rapidly among the erring and the criminal elements, their patronage flowing readily to him who exhibits greatest effectiveness in securing prisoners' liberty. Desire for liberty among us being a compelling thing, a prisoner's carelessness about methods sometimes used in his behalf is wholly understandable.

When the law enforcement team is coordinated and determined in administering the law, professional bondsmen cannot take for granted a "liberal" attitude. Vulnerable as they are to official actions they would then perhaps become eager allies of the people's officers, aiding in the marshalling of evidence, simplifying the routine of trials. But if the law enforcement team is relaxed, uncoordinated and "liberal" in its approach to duty, then the bail bond fraternity's service to lawbreakers will reflect unbalance in the latter's favor.

Past years have witnessed accusations against various bondsmen as "fixers," as unethical competitors, or as abusing the confidence of their clients. To the extent that their activities, and those of the specializing surety companies, bear upon the

problems of law enforcement we felt impelled to inquire briefly.

Types of Bail Bonds

Cash Deposits, normally made by defendants or their friends.

Cash Deposits, made on behalf of defendants by professional bondsmen. Some smaller municipalities in Dade County accept nothing but cash, although occasional uncertified checks are accepted from bondsmen.

"Personal Sureties," rarely acceptable to municipal authorities, and so hedged about in the State Criminal Courts with proofs of land ownership as to be seldom used.

Blanket Deposits, such as those of \$5000.00 each accepted by the City of Miami from three professional bondsmen, who are each allowed to assume liability totalling up to the amount of their deposits, but no more.

Surety Bonds, which are issued by State-licensed corporate surety companies. Due to the important effect which an agent's ability and his contacts have upon the losses a company may sustain, and the localized character of the business, the larger surety companies rarely compete actively in this field, leaving the State to rely chiefly upon undertakings by relatively small companies. This represents, however, a distinct improvement over the situation of years ago, when professional bondsmen often commercialized their ownership of modest-value lands by becoming sureties on great totals of bail bonds.

Types Studied

Bonds filed by professional bondsmen, whether as cash deposits, or under blanket deposits, or as surety bonds, are commented upon herein. Certain references to cash bonds and property bonds will appear, but only incidentally.

We called for and received reports and schedules from the larger municipalities. Also from the Sheriff, and in whole or in part from Justices of the Peace. Lacking complete information from several of the latter courts we cannot place them into a

comparative analysis, nor draw over-all totals for Dade County.

Since this additional information is now available we commend the further study of the bail bond to the incoming grand jury. It has been many years since any grand jury has investigated this situation and it should be more carefully watched in the future.

Agents and Competitive Methods

As will appear below, a wide variation occurs from Court to Court in the business written by the several competing companies. Determining factor seems to be the identity of the agents, so their names are used. In the larger municipalities it was necessary to avoid clerical impasse by listing only bonds of \$200.00 and over, so that totals presented do not include full amounts written by these agents. However, resulting percentages should prove comparatively accurate.

During 1949/1950 professional bondsmen executed bail bonds of \$200.00 and over to the City of Miami totaling \$315,765.00. H. G. ("Grady") Goswick wrote 32.8% of these; Frank Slatko wrote 26.6% Murray Goldberg wrote 13%; and six others competed for the remaining 27.6%.

Miami Beach bonds of \$200.00 and over during the past two years totalled \$166,085.00. Sol Jaffee wrote 80.8%; Murray Goldberg wrote 14.6%; George Goodman wrote 2.5%; and three others competed for the remaining 2.1%. Time has not permitted our inquiry to ascertain what circumstances afford Mr. Jaffee his near-monopoly there.

Coral Gables received during 1949/1950 a total of 980 cash bonds, compared to 46 surety bonds totalling only \$6,210.00. Goldberg wrote 45.2% of these; Goswick 24.6%; Nat Hammer 24.1%; and three others wrote 6.1%.

In North Miami and North Miami Beach the small total of \$5,275.00 which went to professional bondsmen was divided 85.8% to Goswick and 14.2% to Hammer.

In 1950 the town of Opa Locka, which accepts cash deposits only, received bail bonds from professional bondsmen totalling

\$15,830.00. Milton Davis enjoyed 64% of this business; H. Minor wrote 15.4% ; Goswick 13.6% ; and E. D. Dennis 7%. Since Mr. Davis is a member of the town council, having a vote as to who shall be police chief, city attorney and municipal judge, his favored position is understandable.

The Sheriff's office presented the following figures:

Company and Agent	
Peerless Cas. Co. (Goldberg)	
1949	1950
\$253,455.00 (39%)	\$519,950.00 (46.1%)
Pan Amer. Surety Co. (Goswick)	
1949	1950
193,750.00 (29.8%)	277,425.00 (24.6%)
State Fire & Cas. (Hammer)	
1949	1950
70,550.00 (10.9%)	223,325.00 (19.8%)
All Fla. Surety Co. (Langan)	
1949	1950
131,850.00 (20.3%)	107,475.00 (9.5%)
1949	1950
\$649,605.00	\$1,128,175.00

Complaint was voiced by competing bondsmen that during past years Murray Goldberg had obtained an increasingly close hold upon bail bond business originating in the Sheriff's office. Advent of a new Sheriff in November, 1950 brought certain changes in practices theretofore current. For example, a bondsman is discouraged from loitering about and soliciting business within the jail and the Sheriff's office. This is but following the announced policy of all the municipalities of Dade County; i.e., "Bondsmen or their agents are required to obtain permission from the Desk Sergeant or Jailer for such visit with any prisoner, and then only when the prisoner called or requested the bondsmen or agent." Evidence that this new policy has tended toward more even distribution is contained in figures for the new Sheriff's first two full months in office:

Company	Agent	December, 1950	January, 1951
Peerless (Goldberg)			
		\$52,050.00 (43.5%)	\$56,675.00 (37.8%)
Pan American (Goswick)			
		38,875.00 (32.5%)	57,100.00 (38.1%)
State (Hammer)			
		16,850.00 (14%)	28,375.00 (19%)
All Florida (Langan)			
		12,000.00 (10%)	7,600.00 (5.1%)

Under the insurance laws an insurance or surety agent can lose his license for paying commissions to unlicensed persons. We urge the Insurance Commissioner's diligent inquiry into conditions which in the past may have prevailed in the Sheriff's office.

Of more pressing public interest were reports of political "fixes" and "contacts" in which a bondsman was alleged to have taken part. Investigating one of these we found it necessary to indict Murray Goldberg for his part in arranging theft of certain evidence taken in a gambling raid.

Credit Controls by Public Agencies

We do not here comment unfavorably upon the solvency of companies whose bail bond activities we briefly reviewed. Nor do we compare one with another. The State of Florida and the several municipalities which accept surety bonds are definitely interested in such solvency. Our laws recognize this, providing certain minimum requirements of capital, deposits and reserves, and for examinations by the Insurance Commissioner. In spite of these requirements, however, there always exists possibility that some company might fail, as at least one has done in past years.

Likewise those municipalities which accept bondsmen's uncertified checks in lieu of cash are interested in the cashability of any one or all of such checks. Obviously the total should not be allowed to become very great.

A surety company's failure, or bondsman's bad check, would provoke immediate necessity for every Court having accepted appearance bonds from such a source to require defendants to post new bonds. Under existing clerical procedures we found that prompt action by most courts in such a contingency would be well-nigh impossible, and that knowledge of the extent to which a surety company has been extended credence just does not exist among the officials.

Procedure in Federal Court is more strict. Before a surety company may become accepted on bonds in which our Government is obligee, it must deposit \$250,-

000.00 of securities with the Treasurer of the United States. Even then it is limited as to the amount of any one bond. Federal Courts will also receive application from persons desiring to furnish bonds for others, analyze their financial worth, and fix a maximum line of credit. The Clerk of the United States District Court must then keep a running balance of bonds undertaken and bonds satisfied, so that the total outstanding shall at no time exceed the authorized amount.

The City of Miami also fully recognizes the importance of this credit control. We quote from the City's letter of February 6, 1951, signed by Harry A. Luethi, Clerk-Cashier of the Municipal Court:

"In cases in our Court where bonds are required we accept only three types, namely cash, surety bonds, and bonds charged against a blanket deposit posted with the City of Miami. Before accepting surety bonds we must be advised by the State Insurance Commissioner that the company is authorized to do business in our State, and we limit the types and amounts of their obligations to those limitations imposed by the Insurance Commissioner. We also impose other minor qualifications and regulations which we believe protect us fully.

"At present we have three bondsmen who write bonds against a Five Thousand Dollar (\$5000.00) Deposit (each) placed with the City in cash or U. S. A. Treasury bonds and controlled by a "Blanket Deposit Receipt" between the City and the bondsmen, which we feel gives the City every protection. Among other things, this Receipt or Contract empowers the undersigned to authorize the transfer of such portion of said cash or the sale of sufficient of said Treasury bonds to satisfy any forfeiture that the bondsman may refuse to satisfy voluntarily."

Mr. Luethi maintains an excellent credit control record, posted weekly, which gives him at all times a general view of the City's position of reliance on bondsmen and surety companies. We commend his system to the study of other officials and suggest that similar control records, with columns for the most active surety companies, be set up and maintained by the Sheriff's office, the Justices of the Peace, and the municipalities accepting bail bonds in other than cash form. This will assist in periodic

audits by County, State, and the Insurance Commissioner.

Bond Estreatures (Forfeitures)

Professional Bondsmen are permitted to charge up to 10% as their fee. Most of them do, whether they furnish a surety bond, or cash, or act under a blanket deposit. The surety association manual states a rate of only 2% on bail bonds, leaving an apparent margin of 8% for the agent. However, the manual rate contemplates that a surety company will receive cash or equivalent collateral to protect it against loss. Few defendants are either willing or able to do this.

Desire for liberty produces willingness to pay the 10%, providing the bondsman will trust the defendant to make his appearance at trial. Thus a system has grown by which certain agents pay the company its 2% (and sometimes more) for use of its name and credit in the writing of bonds, while the agent himself assumes the risks and pays any losses incurred by forfeiture or "estreatures." This makes the professional bondsman the real party financially at interest, intensifying his desire to avoid estreatures, to have them set aside subsequently (vacated), and to otherwise avoid losses.

We found that estreature of other than cash bonds, and continuance of estreatures to point of collection, was almost unheard of in the Justices of the Peace Courts. A solitary instance arose this Winter from Judge Ferguson's Court.

In Miami Beach the forfeiture and collection of a bond against a professional bondsman was reported not to have occurred for five or more years.

In the City of Miami the total forfeitures against professional bondsmen during 1949/1950 (on bonds of \$200.00 and more) were \$4015.00. This is 1.3% of the total written.

Comparing the 1949/1950 total bonds approved in the Sheriff's office (\$1,777,770.00) with the bonds estreated in Criminal Court and the Court of Crimes in the same two-year period (\$31,500.00), we noted a loss ratio of only 1.7%.

It would seem therefore that so long as the policies of the prosecutors and of the Courts remain unchanged, the professional bondsmen enjoy relatively safe financial ground. Should the Courts begin to assess jail sentences in gambling cases, instead of mere fines as heretofore, then a sudden exodus of such defendants might occur. Their bondsmen might suffer, and the officials responsible for approval of bonds might then freshly examine surety credentials.

Parenthetically, we note that when defendants in gambling cases did not appear for trial it has been almost uniform policy among the Courts (except by Judge Wayne Allen in the Court of Crimes) to end the matter with bond estreature and not to order rearrest of the evasive defendants. This has tended to remove gambling charges from practical classification as felonies.

Dade County Collections of Estreated Bonds

We have taken what might be called a taxpayer's look to see whether, in Dade County, estreated bonds were actually collected. An extremely mixed record of accomplishment was encountered, forcing us to the conclusion that estreature of a bond has unfortunately not always meant that the State will receive financial indemnity anticipated from the bond as partial recoupment of the expense of arresting a defendant and preparing the case against him.

On March 13, 1945, Judge Paul Barnes of the Circuit Court addressed a letter to Hon. Stanley Milledge, then State Attorney and now a Circuit Judge, pointing out that, "No bonds ordered escheated in the criminal courts of this county have been prosecuted since September, 1943." The State Attorney replied, sending a copy to Hon. Robert R. Taylor, pointing out that Section 903.28 of the Revised Florida Statutes placed upon the prosecuting official the responsibility for collection of estreated bonds. Those from the Criminal Court and the Court of Crimes should therefore be the responsibility of the Solicitor.

No collection suits were filed in 1946. Suits filed on 5 bonds totalling \$1200.00 and estreated after January 1, 1946, were

dismissed December 2, 1947, because more than one year had intervened between estreature and the filing of suit by the Solicitor. On the same date the Court dismissed on like grounds several suits filed on bonds estreated prior to January 1, 1946.

Suit on one bond of \$5000.00 was lost because National Surety Corporation, the surety, answered that the original case in which the defendant Boyer was arrested on December 24, 1943 was kept a long while on the suspense calendar, then removed and twice set for trial without notice to the defendant or surety. Bond was estreated October 15, 1946. Collection suit was not filed by the Solicitor until August 4, 1947, which was 9 2/3 months later. Meantime, on May 23, 1947, over 7 months after bond estreature, the defendant died.

On a total of \$4725 of bonds among those estreated during 1946, 1947 and 1948 our investigation disclosed that no collection suits have as yet been filed. Mr. Taylor reported the circumstances contributing to these oversights as follows:

Three bonds totalling \$800.00 were not sued upon because of some relieving circumstances in the trial court.

On 3 bonds totalling \$1100.00 the original certificates of estreature were delayed in the Clerk of Circuit Court's office for considerably more than one year after actual estreature.

Four bonds totalling \$1075.00 still repose in the Clerk of Criminal Court's office.

Original certificates of estreature on 8 bonds totalling \$1750.00 were delayed in clerical processing so that they did not reach the Solicitor's office until January 14, 1949, considerably more than one year after estreature.

It appears inevitable that some misfilings and mishandling will occur in what seems a rather cumbersome collection method. The Legislature in its wisdom recognized this when it fixed responsibility for collection upon the prosecuting official who developed and followed the case in trial court. His work cannot be considered finished, his case closed, until he has collected an estreated bond. Certainly he cannot proclaim such collection responsibility as a new and independent

item, dependent upon the vagaries of clerical routine for arrival upon his desk in a timely manner.

We are encouraged by Solicitor Taylor's assurance that improvement in method will occur in these matters, so that appearance bonds when estreated will uniformly be collected. We believe that the responsibility for the collection of estreated bail bonds rests entirely with the office of the County Solicitor.

More recent than the above-recited cases was the estreature on June 21, 1949 of 6 bonds totalling \$3000.00 against All Florida Surety Company, and on which the Solicitor had not (prior to February 8, 1951) filed suit. Mr. Taylor has explained that these also have but recently come to light, having been misfiled in the Circuit Clerk's office. He has promised that in spite of the lapse of more than one year from estreature he will file collection suit, asking the Court to take account of the oversight and certain other circumstances.

We have discussed this \$3000.00 at length with Thomas J. Langan, Executive Vice-President of the surety company, and have learned:

1. That the company received knowledge of these estreatures on or about the date thereof, and had expected to be required to pay,
2. That the company thereupon obtained the necessary money to pay, receiving it from S & G Service (Miami Beach gambling syndicate), who were the employers of the six persons for whom the bonds had been written.
3. That the company has been ever since carrying the \$3000.00 as part of its collateral deposits.

Mr. Langan seemed impressed with our view that a surety company or professional bondsman asking State, County and Municipal officials to accept bonds must appear in bad faith when asserting lapse of time as a defense in such circumstances. Such officials might with justice point to numerous indulgences when Courts have postponed trials to avoid necessity for estreature, and might refuse further acceptance of his company's undertakings. He indicated his personal will-

ingness to turn over the cash collateral to the State to satisfy the estreatures, provided that the company should be subjected to no claim from S & G Service. But we have since been advised that his company intends to avail itself of every available technical defense against payment.

To the public aspects of this situation we invite the attention of the Insurance Commissioner, and of officials responsible for approval of bonds. And we urge the Solicitor's most vigorous effort in collection.

ACKNOWLEDGEMENTS

For assistance in our work and deliberations we wish to thank:

Honorable George E. Holt for his clear, pointed and detailed instructions relating to the Grand Jury at the time we were empanelled.

Honorable Glenn C. Mincer, State Attorney and John W. Prunty, as Special Counsel for the Grand Jury, are justly entitled not only for the thanks of this Grand Jury for stabilizing the proceeding with timely and legal advice, but are also entitled to the trust and confidence of the people of this Community who believe in better law enforcement, in efficiency in public office and in honesty of public and private affairs.

John R. Walsh and George H. Harvey for their aggressive work and fine service rendered in assisting this Grand Jury in accumulating material facts on which to base our findings and decisions.

Henry E. Colman and the members of his staff who efficiently reported our proceedings.

Honorable Thomas J. Kelly, Sheriff of Dade County, Chief Deputy Frank Jackson and Honorable O. D. Henderson, Safety Director of the City of Miami, for their cooperation and able presentation of information relative to illegal gambling.

Respectfully submitted,
DADE COUNTY GRAND
JURY FALL TERM,
A. D. 1950
WILLIAM ATWILL, JR.

DATED this 12th day of February, 1951.
JOHN J. (Jack) HARDING