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

~~Spring~~ FALL Term A. D. 1951

FINAL REPORT OF THE GRAND JURY

Filed
MAY 12, 1952

Circuit Judge Presiding

VINCENT C. GIBLIN

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Official Court Reporter

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Official Bailiff

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

Fall Term, A.D., 1951

FINAL REPORT OF THE GRAND JURY

FINAL REPORT OF DADE COUNTY GRAND JURY, SUBMITTED TO THE HON. VINCENT C. GIBLIN, JUDGE OF THE CIRCUIT COURT, AT THE COURTHOUSE, MONDAY, MAY 12, 1952, 5 O'CLOCK P. M.

Foreman: This is now open court, as you know, and as such we are reporting verbally our final report to Judge Giblin, who has empaneled this Grand Jury. The report will be taken by the Court Reporter and reduced to writing, which we hope to have ready by tomorrow.

Judge Giblin, before the report is read to you, this Jury would like to acknowledge publicly the tremendous aid, assistance and comfort that you have given to us, not only as the Judge who gave us such a fine charge when we came into being, but particularly because you have made yourself available at all hours and at all times for consultation in every matter where we have felt that we have needed to seek your advice on matters of policy and procedure. I want you to know that much of the effectiveness of this jury has been due to the feeling we have had that in you we have had always available to us the finest of legal counsel and the most impartial advice. It has been a source of deep personal gratification and comfort to us.

The Court: Thank you.

The Foreman: With your permission, sir, Captain Kramer will read from the compiled notes of the final report. Captain Kramer.

Grand Juror Alwin D. Kramer:

Final Report of the Grand Jury

We, the Grand Jury, in and for Dade County, Florida, for the 1951 Fall Term of the Circuit Court of the Eleventh Judicial Circuit of Florida, present this as our final report.

Introductory Remarks

On November 13, 1951, this Grand Jury was impaneled by Judge Vincent C. Giblin, to remain in being until the next Grand Jury is impaneled and sworn. This is the first Grand Jury in the history of the State of Florida to be composed entirely of persons who volunteered for service, under the legislative Act of 1951. It has been termed the first "Blue Ribbon" Grand Jury, but its members are in nowise endowed with special or unique abilities other than an avowed dedication to the cause of responsible citizenship.

Our membership included, among its number, citizens of various economic, racial, religious, political and geographical categories, including two negro men who served with distinction. The four women on our panel, by their constant attendance, sound advice and special committee activities, were a most valuable part of our group. Most of us were without previous experience in this service. All of us were aware of an added responsibility, as the first all-volunteer panel, in justifying this method of selecting jurors, and perhaps this had much to do with the adoption of a long-range view on the matters undertaken.

Judge Giblin's charge to the Grand Jury was most comprehensive and helpful in giving us an initial understanding of our powers and duties. Moreover, we were the first Grand Jury to have the benefit of the new "Manual For Use of Grand Jurors", compiled, printed and furnished by the Grand Jury Association of Dade County. This Manual was invaluable in speeding and clarifying our work, and in making us a truly independent investigative body. We recommend a close study of it by future Grand Juries.

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In the selection of a Special Counsel, as now permitted by law, we first determined that a prerequisites for the position was training in investigative procedure, as well as knowledge of law, inasmuch as the State Attorney, Glenn C. Mincer, had told us frankly that his office did not regard the initiation and supervision of investigations as being a part of the responsibilities of his office. To this end, we interviewed a number of excellent attorneys, compared their several abilities for the particular work involved, and in December employed Walter E. Dence as Special Counsel and Special Investigator. His 12 years as a Special Agent of the F.B.I., his knowledge of investigative procedures, the keeping of permanent records for the use of future Grand Juries, and the respect in which he is held by other law enforcment agencies has proven to be invaluable to us. Additional investigators have been employed as need arose. Of these, Mr. John R. Walsh and Mr. George H. Harvey have been most helpful.

Basic Policy

We early adopted certain basic policies as most likely to contribute to the effectiveness of our and succeeding Grand Juries, and be of long range benefit to the community. These policies consist essentially of the following:

1. The confidence and trust of citizens in the secrecy of Grand Jury proceedings is essential to successful functioning of a Grand Jury. To develop this trust is a continual and vital concern, if the ideal of unafraid citizens volunteering as witnesses is to be attained. Transcripts of testimony are of course available to Grand Juries, and by law may be used only to disclose perjury, or inconsistencies of testimony under oath in other courts, with one exception. This exception provides that the Court may release the transcript "in the furtherance of justice". Loose interpretation of this phrase has permitted muliple copies of transcripts in the past, and undue disclosure of the confidences contained therein. Only one transcript of our testimony was made and kept under seal of secrecy, provided by law, on instructions from Judge Vincent C. Giblin. An order also was prepared by this Jury and signed by Judge

Giblin authorizing destruction of all existing duplicate copies of testimony of previous Grand Juries. We acknowledge most gratefully the helpful suggestions and cooperation of E. B. Leatherman, Clerk of Circuit Court, and his staff, in improving the security of testimony.

2. Effective public relations, with due regard for secrecy, was considered necessary to Grand Jury basic purposes. The clearly implied purpose of secrecy is to avoid obstruction of justice, the embarrassment of witnesses and hampering of Grand Juries in their operations. We decided that no information or statements would issue from any of us except with the approval of the Grand Jury as a whole, and then only through a specifically authorized person. We would at the same time inform the public frequently of each individual's right to appeal to us for aid and protection of his interests, and of how individual citizens can in confidence help the Grand Jury for the public benefit.

3. In view of the fact that we now have a continuous Grand Jury, we undertook to, and have, set up permanent coded indexed files of information for the exclusive, secret and ready use of the Grand Jury. We feel this to be an outstanding accomplishment. Testimony of this, and all previous Grand Juries was studied and indexed in several ways. The data was transferred in coded index characters to over ten thousand file cards for ready reference. These cards are useless to anyone without the key to the code, and even then are of no value without access to the actual transcripts under seal with the Clerk's office. No future Grand Jury will have to repeat this work, and the file should prove of tremendous future value. Complicated confidential investigations being conducted along several lines are contained in these files, which are being turned over to the succeeding Grand Jury, with recommendations for continued investigation along those lines with no publicity being given to them in this current public final report.

4. Information on subjects investigated, but not sufficiently developed to warrant presentment, effective indict-

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ment, or mention in our reports, was prepared in such form that inquiry could be carried forward without interruption after our term expired. This policy was adopted to deter any misgiving about undertaking lines of inquiry that require extended, delicate, or difficult investigation to obtain effective eventual results.

5. Capital cases were a continued concern of the Grand Jury. A policy of repeated checking on effectiveness of detection and diligence of prosecution was adopted. All capital cases were heard as soon as ready to bepresented by the State Attorney's office.

6. A working liaison with the Federal Grand Jury and other authorities was decided on to facilitate exchange of information that might be of value to the respective jurisdictions.

7. A looking-over-the-shoulder policy was adopted as a broad approach to checking on the conditions in many state, county and municipal offices and the efficiency and competence of their administrative officers. While the check would necessarily often be cursory, it was felt that the effect would be at least salutary.

Special Policy for This Term

A policy of prevention was adopted with reference to organized gambling, particularly during the height of the winter season. We sought and obtained the cooperation of police organizations and the Sheriff's department, working in conjunction with our own investigators. This policy was most effective, and for the first time in the history of modern Dade County there was no open and notorious table gambling or bookmaking, except on a brief and sneak basis.

General Discussion

In developing and carrying out the policies outlined above, we encountered no lack of cooperation from all officers and officials called upon for information, including voluntarily

appearing before the Grand Jury, waiving of personal immunity and willingness to name a personal net worth figure, if requested, with the lone exception of the five Miami City Commissioners—Mayor Chelsie B. Senerchia, Perrine Palmer, Jr., H. Leslie Quigg, William Wolfarth and Robert H. Givens, Jr.

The Crime Commission of Greater Miami was unstinting in its aid when asked, and by its initiative in furnishing information on law violations contributed much to some of our inquiries and results.

A total of 61 general meetings was held by the Grand Jury. These varied in length from 2 to 9 hours, averaging about 5 hours each. Conscientious attendance is indicated by the fact that the overall percentage was 93.1%.

About one-third of the meetings were devoted to 16 capital cases, recapitulated as follows:

Indictments for murder in first degree	7
Indictments for murder in second degree	2
Indictments for rape	3
Indictments for kidnapping	1
No True Bills—homicide cases	3
	16

Five other cases on which returns were made involved about eleven meetings. A total of 99 witnesses was heard in the above mentioned 21 cases.

Six different locations were used for meetings during the term, the most satisfactory and spacious being the Law Library on the 4th Floor of the Courthouse. Particular thanks are due and tendered to the management of the El Commodoro Hotel, not only for its ready cooperation, but because it donated facilities for 19 meetings, both afternoons and evenings, without charge. This saved a substantial amount of tax money which otherwise must have been spent to provide an acceptable

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meeting place not now available in the Courthouse. There is no room regularly assigned for the used of the Grand Jury, and there apparently will be none until the Courthouse is vacated by the City of Miami. The procrastination of the City of Miami in arranging to vacate the space it occupies in the County Building, as requested by the County Commission, is hampering the administration of County business by causing a critical shortage of Circuit Courtrooms and other quarters, including a proper Grand Jury room.

CITY OF MIAMI LAWS PERTAINING TO THE SALE OF INTOXICATING LIQUORS

Introduction

Numerous complaints were received of alleged violations of City zoning laws in Miami, some of which were processed and others of which are being turned over to the next Grand Jury for investigation.

Many of these complaints had to do with alleged violations of liquor laws, which lead to an investigation of this subject. We consulted with authorities, and obtained qualified opinions as to present laws, particularly from Police Chief Walter E. Headley and Lt. C. S. Eldredge, who is responsible for enforcement of the laws.

Discussion

We find that some sections of the City liquor ordinances state an intent to prohibit certain conditions or sales, but fail to state definitely that such conditions or sales are an actual violation of the law. Sections 1 to 12, for example, state the conditions under which various types of liquor licenses may be issued. However, after the license is issued on premises complying with the original requirements, there is nothing in the law that requires the original requirements to be maintained. Hence, through sub-leases or conversion to other use, the premises are changed entirely from their nature when the license was obtained, and under the present law the police are powerless to prevent continued use of the license.

Numerous instances of vague or rambling wording in the liquor ordinances make enforcement almost impossible, since clear-cut instructions cannot be given to police officers.

The ordinances extend to several agencies the authority to make inspections of property as to qualification for a license. Thus the building, plumbing and zoning divisions overlap on preliminary inspections as to eligibility for license, and the police division, charged with enforcement, has no voice in the original issuance of the license. These divisions properly should cross-check each other, but the present ordinances leave much to be desired as to clarity and effective possible enforcement.

Night club licenses require the club to provide vaudeville entertainment and music for dancing, yet make no requirement for soundproofing, even though located next to a residential area or close to hotels. Thus they qualify for a night club liquor license, although they may, by operating under it, constitute a nuisance under another law which the police are required to enforce.

Recommendations

We therefore recommend that a new code be drawn by the police division, charged with its enforcement, in cooperation with the City Attorney. We further recommend that this code be submitted to a conference to be attended by representatives of all groups interested, including liquor dealers, civic groups, ministerial groups, the Chamber of Commerce and others affected, and their views obtained as to each section thereof. The compromise code that must result from such discussion should be clear, concise and definite. It then should be adopted, and all ordinances in conflict therewith repealed. Failure to take such early action can result only in almost hopeless confusion in enforcement and opportunity for much petty graft among employees of various divisions as the City grows.

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MIAMI CIVIL SERVICE BOARD

Introduction

Numerous requests were received for an investigation of the Miami Civil Service Board. The Grand Jury obtained the report of Mr. Hugh P. Emerson of an examination into the affairs of the Civil Service Board made at the request of a former City Manager, as well as the reply of Mr. Joe A. Yates, Jr., Chairman of the Civil Service Board. We obtained a copy of the Civil Service law with amendments and regulations, and took testimony from various witnesses, including some who assisted in preparing the Emerson report, and from Mr. Henry W. Korner, Executive Secretary of the Board. Offers of full cooperation were received from Mr. Yates, the Chairman, and other Board members, and Mr. Korner was most helpful.

Discussion

There is evidence that the Board has not been impartial in some of its rulings and that on occasion it has, in fact, violated its own rules and regulations, which, under Section 63 of the Miami City Charter, have the force and effect of law. We cite the following instances:

1. L. S. Coursey, Jr., and P. C. Ponticelli both applied for Civil Service status as maintenance repairmen. Both Coursey and Ponticelli failed to make a passing grade in the examination for this position. The superiors of both men appeared before the Board, each stating that the subject was a good workman, and pleading that he be retained. Coursey was discharged, but Ponticello was given permanent Civil Service status. This appears to us to be not only favoritism, but a direct violation of the Board's own Rule VI. Part of Sections 2 and 3 of Rule VI read as follows:

> "Passing grades for each examination shall be established by the Board. The names of applicants receiving a passing grade shall be posted in the office of the Board and entered on the appropriate eligible register . . . A candidate who does not attain this

minimum grade shall be considered to have failed in the examination and shall not be examined on any other parts, if any are planned."

2. Mrs. Betty H. Smith refused an appointment to a higher position because it required night work and would have made impossible the care of her family. She was removed from the regular register of those eligible for promotion and the Board refused to restore her to the eligible register upon her request. On the other hand, Mrs. Margaret C. Reed, an employee in the Civil Service office, who twice refused appointments to higher positions for reasons not equally sound, was retained on the eligible register and later was given a better job in the Police Department. This appears to indicate partiality. Furthermore, the decision in the case of Mrs. Reed, appears to be in violation of Section 7, Part 2, Rule VII, which in part reads as follows:

> "Any employee whose name is on a promotional register and who has registered a desire or willingness to waive his right to promotion on two different occasions, will be further considered for promotion only to vacancies appearing *in the department in which he is employed.*"

The Jury cannot judge the wisdom of the latter decision. It feels impelled to point out, however, that rules must either be followed, or changed, if they are to be effective, and that above all, these must be impartially administered.

3. Another instance is that of Peter Nilsen, who was in all respects qualified for advancement to the rating of district fire chief whe nand if an opening occurred, and had been at the top of the list for some considerable time. A requisition for his appointment as district fire chief was made by Chief Henry Chase, and submitted to the office of O. D. Jack Henderson, then Safety Director, for transmission to the Civil Service Board. The jury has been told that the Civil Service Board was unable to approve Nilsen's advancement until the requisition was released by Henderson's office, and that Henderson's office held it for something over a year on the

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premise that a new district had not yet been created. During said period, however, the existing district chiefs were required to work overtime, thus indicating that a need for an additional district chief existed. Since they were paid overtime, it further indicated that funds were available. We are informed that there are ways in which Mr. Henderson could have been forced to act on the requisition, had the Civil Service Board aggressively protected the rights of Nilsen for advancement. The fact that one of the district chiefs drawing overtime pay during the interim was a member of the Civil Service Board is a further cloud on this delay, for without implying any such intent, this nevertheless places the Board's failure to act in a questionable light.

4. The City Charter relating to the Civil Service Board, under Section 65, Paragraph (b) states in part:

> "It shall be the duty of the board to fix a minimum standard of conduct and efficiency for each grade in the Service, and whenever it shall appear from the reports of efficiency made to said board *for a period of three (3) months* that the conduct and efficiency of any employee has fallen below this minimum, the employee shall be called before the Board, etc."

This Charter provision clearly indicates that efficiency reports are to be provided at least every three months and perhaps monthly. The Board is using the Probst system of rating to determine comparative efficiency. These Probst ratings are now given only each six months, according to testimony, and this appears to be in violation of the Charter cited above. It also appears to work to the disadvantage of probationary employees, who do not have an opportunity to correct or improve shortcomings as would be possible with a three-month rating. Improvements in the technique of taking and grading the efficiency reports appear to be badly needed.

5. Section 5, Rule XII, of the Civil Service rules and regulations provides that service for two years shall be a minimum requirement for police officers before taking an examination

for detective. The Civil Service Board apparently assumed unlawful authority in raising the requirement to five years and was stopped from enforcing the later requirement by Court injunction. Rule XXI provides that the Board may repeal, supplement or amend its rules 15 days after such proposal is made and that the change shall not become operative until approved by the City Commission. In this instance there appears to have been sound reason for changing the length of service required from two to five years, but in doing so without approval by the City Commission the Board clearly exceeded its power.

6. Rule XVI, Section 2 reads in part:

"The following are declared to constitute a breach of duty and to be grounds for dismissal . . . that any employee . . .

(r) Has intentionally falsified a time record or failed to report absence from duty to superiors; or if, *after employment,* it is found that an *employee has made a false statement in the application for employment."*

An instance was found of an applicant being barred from taking an examination for employment because it was discovered that a police record had been concealed when making application. Another instance was found where one already an employee had likewise concealed a criminal record on original application but was nevertheless continued on the City payroll. The Board chairman explained its action by distinguishing between the fact of employment and of application for employment. The rule above cited seems quite clear that in the second instance the employee did make a false statement and should have been discharged. The ruling of the Board in these two cases appears not to be consistent, and in the second case to be contrary to its own rules.

Conclusions and Recommendations

From the foregoing and from the other testimony taken and investigations made, the Grand Jury concludes that much

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of the criticism of the Miami Civil Service Board is justified. We reached the following specific conclusions and make the following recommendations to the City Commission of Miami:

1. Much of the apparent inconsistence in administering the Civil Service law may be due to the vague or uncertain phrasing of the law itself and to the mass of amendments and modifications which have from time to time been issued but not integrated into the law. In its present form, as submitted to us for reference, an intelligent and accurate determination of the exact rules on any subject is almost impossible to reach. We therefore make the recommendation that the Civil Service rules and regulations be rewritten immediately and reduced to clear, concise language which can be made available to all interested persons in printed form with a place provided for the inclusion of subsequent revisions and changes. When sufficient revisions and changes have been made to render confusing and determination of exact rules, the entire law should again be brought to date and printed.

2. The efficiency of all city employees can be measured in direct proportion to the security each employee feels in the job held and in the certainty of recognition of and reward for ability and application. The Civil Service system itself came about as a guarantee of security in employment based upon merit. To the end of more efficient operation of the Municipal Government, the following are recommended as deserving early and earnest consideration:

(a) That the Civil Service rules and regulations be administered strictly and above all impartially. The rules should be changed or clarified where necessary, but in no case ignored. Above all they must be applied equally and consistently to all employees. Nothing so destroys morale among workers as suspicion of favoritism, whether or not founded upon fact.

(b) Competent experts should be engaged for such time as is necessary to analyze and improve the efficiency report system. Emphasis should be placed upon according the ratings of immediate superiors and department heads of employees

under their supervision more relative weight with a view to most accurate ratings. There are many systems of efficiency reports in use by industry, the armed services, and various political subdivisions of the nation. The systems are undergoing continuous study and improvement. Whether Miami should simply improve the currently used Probst system, or adopt a different and better system, or draft a new and better system, should be determined after the recommended study.

(c) When a city employee requests a hearing before the Board, the City Commission or City Manager should appoint an impartial investigator, qualified to seek out all actual facts with no taint of bias and to present them to the Board as a basis for its decision.

(d) A definite trial procedure shoud be estabished in the rues, setting up specific reguations, incuding the presenting and receiving of evidence, not necessarily in accordance with the legal rules of evidence, but simplified to arrive at a just and impartial decision with maximum speed.

(e) Questions in examinations for initial employment necessarily must be patterned after the best known scientific methods for determining the particular general qualifications required. Questions in examinations for subsequent advancement to higher positions in particular departments should be based on practical knowledge of the specific requirements of the position sought and these should be obtained from those persons best qualified to design such questions, whether in or outside of the employ of the City.

(f) Personnel records of all City departments should be thoroughly analyzed and time cards or work logs kept on all employees by an assistant of the department head known to be accurate and impartial. This will allow ready verification that all employees are delivering the number of hours and the amount of work for which they are being paid, and will eliminate any possible charge that relatives or political associates of City officials or department heads are receiving special privileges.

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(g) Regulations should be clarified and strictly enforced concerning the use of City automobiles by any City employees outside of the requirement of their particular job and particularly after 5 o'clock P. M.

(h) The possibility of an impression of favoritism being shown as between different employees must be avoided at all costs, regardless of how little basis there may be for such impression.

3. Regarding specific changes, we recommend for immediate and serious consideration the merits of the following modifications in the Civil Service rules and regulations or laws:

(a) That the Chairman of the Civil Service Board serve for a period of one year and not be eligible again to serve as Chairman until a period of two years shall have elapsed.

(b) That the present salary of $200.00 monthly paid to each of the five members of the Civil Service Board be abolished and that a nominal fee of perhaps $5.00 be allowed for each meeting attended with reasonable mileage allowance for travel in personal cars on Board business. The $12,000.00 spent on Board salaries each year is not sufficient to attract expert administrators, although it represents an appreciable spending of tax money. Inquiry has indicated that a raising rather than a lowering of the general qualifications of Board members should result from such action. Certainly the three members appointed by the Commission from outside of City employees could in no wise regard such appointment as a political plum.

(c) That the City Commission be required to make its selection of the three Board members it appoints from a list of persons nominated by a group of not less than twenty recognized non-political Miami organizations such as Civic, Service, Professional and Educational groups, each to nominate one person willing to serve in this capacity.

(d) That minimum requirements should be established, to insure the nomination of individuals with ability as well as willingness to serve.

(e) That the terms of office of the three appointees to the Board be staggered and that the two elected from among City employees continue to serve for one year as at present. The next City Commission should select three members; one to serve for six years, one for four years, and one for two years, to be determined by lot. Thereafter, each new City Commission should appoint one member for a six-year term.

(f) That the office of Executive Secretary of the Civil Service Board be established as a classified position, to be filled by open competitive examination, based upon the specific qualifications required. After serving a probationary period and establishing a permanent status, such individual could not be removed from office without just cause properly proven. At present the Executive Secretary is elected by the Board at its first reorganization meeting and serves at its pleasure. The present Executive Secretary appears to us to be both competent and sincere in his desire to be of constructive service. Nevertheless, we believe that the removal of any possibility of an Executive Secretary being appointed on the basis of political expediency would measurably contribute to the confidence of all employees in the impartial discharge of the duties of a Secretary, and we further believe that the present secretary well may welcome such a competitive examination and the security of employment afforded by the Civil Service system properly administered.

Election Laws

An interim report with two indictments was returned on April 30, 1952, and is appended.

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

One of the subjects of inquiry by the Grand Jury during this term has been the election laws. This matter is

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reported to the Court at this time in order that it might become public information prior to the May 6th, 1952 primaries.

The scope of our investigation covered some thousands of names, pertinent laws and court decisions, operations of the Office of Supervisor of Registration, and prosecutions by the County Solicitor. Although the inquiry continued throughout our term its thoroughness was limited by the press of other subjects of inquiry to consideration at only a few sessions.

We found that many convicted felons who have not had civil rights restored are registered to vote in Dade County. The sample studied established the number as running into the hundreds and indications are that it may possibly be thousands. The existence of this condition appears attributable to at least the following:

1. Lack of routine or machinery for notifying the Office of the Supervisor of Registration, hereinafter sometimes called the Registrar, of felony convictions in Dade County Courts.

2. Non-existence of any combined State of Florida records where a ready check could be made by the Registrar of fraudulent registrations in Dade County by felons convicted elsewhere in the State.

3. The short duration of the Statute of limitations in many of the applicable laws vitiates their effectiveness because normally the fraud is not detected within the time limits for prosecution. This is true of the great majority of registrations established by this grand jury as fraudulent. The only action possible is removal of such names from the registration role and this has been done by the Registrar.

4. The upholding by the Supreme Court of the lower Court's quashing of informations against persons for perjury regarding qualifications as electors if the substance of the specific law violated is not set forth in the oath.

5. Deletion by the Dade County Budget Board of an appropriation authorized by the 1951 legislature for employment by the Registrar of experienced personnel to detect frauds in registration and voting.

6. Difficulty of detection and conviction not only for the above reasons but also because of the rapid expansion of the Dade County registrations to more than one-fourth of the State's total electorate, as well as the large winter influx of seasonal residents and visitors.

We established the existence of cases of dual registration, and found indications that there may be many more. These include both cases of persons registering in more than one County of the State of Florida, and of persons registering locally as qualified to vote who are also registered voters in other states. This situation continues to exist for many of the reasons mentioned above under felon registrations.

Reports and evidence received to date by the Grand Jury of possible violations of other election laws were insufficient to warrant return of indictments.

Facilities for voting were found to be most inadequate in some of the precincts of Dade County during the election held in November 1951. Plans in preparation at the time for use in the primaries in May 1952 are expected to alleviate many of the inadequacies, particularly that of disproportionate numbers of electors in certain precincts for the facilities available therein.

Recommendations

1. The Grand Jury recognizes the difficulties attendant on modifications of precinct boundaries and allocations, but recommends more frequent revisions than has been the case in the past to provide properly for the more rapidly growing sections of the county particularly.

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2. We recommend that the Supervisor of Registration require each applicant for registration as elector to state specifically that he has not been convicted of a felony by any court of record within the United States. If he reports such a conviction against him, the applicant should be further asked if his Civil Rights have been restored. In addition to these specific questions the form of oath each applicant is required to subscribe and swear to should be revised to include the substance of these two specific questions.

3. The Grand Jury recommends to the Dade County Commission and the Dade County Budget Board that up to $5,000.00 be appropriated annually as provided in Section 100.40 Florida Statutes 1951 for the employment of experienced personnel to investigate fraudulent registration and illegal voting. Such recommendation is based upon the patent need for the removal from registration lists of persons who have registered fraudulently and have been voting illegally.

4. We recommend that prosecuting officers or clerks of courts of record routinely notify the Office of Supervisor of Registration of convictions obtained from felnies and follow-up with further notice if higher courts act on the case.

5. We recommend that the newly established Bureau of Criminal Investigation maintain a County-wide felon registration file in such form that it can be readily checked against the roles of registered electors.

6. We recommend that prosecuting officers in Dade County of the State, County and Municipalities routinely notify the Bureau of Criminal Investigation of convictions of felony within their jurisdictions to facilitate keeping this file up to date. Law enforcement officers, constables and police of various jurisdictions maintaining registrations of felons, or learning of non-registered felons in the course of their work, should also as a normal procedure inform the

B.C.I. The advantages of having such a County wide file kept up to date are obvious. It should be a source of readily available information to which investigating and prosecuting officers can refer with confidence to aid their work and to advise judges, partcularly of lower courts.

The Supervisor of Registration has lent his full cooperation and assistance in this investigation by the Grand Jury. Although the incumbent has not been afforded the services of an investigator as authorized by Section 100.40 Florida Statute 1951, he has for the past several weeks hired such an investigator who has greatly assisted the Grand Jury. Through the investigator's efforts a large number of additional instances of fraudulent registration have been brought to our attention. However since only a beginning has been made in the use of sources of information now at hand, and no information from Federal jurisdictions has as yet been obtained, it is apparent that the use of an investigator by the Supervisor of Registration should be continued for some time and probably permanentl.y

The guidance of the State Attorney's Office and the advice of the County Solicitor's Office have been most helpful to the Grand Jury in its inquiry into this subject. We have found probable cause to believe that fraudulent registrations have occurred in two cases on which we are returning indictments this date. Other cases just as clearly established appear to have fatal deficiencies in time limitations or legal technicalities that would render the return of indictments futile. The investigations under way should however produce many other cases sufficiently well founded to warrant valid indictment with prospect of successful prosecution.

Legislative Recommendations

1. We recommend that the legislature lengthen the time limitations in laws bearing on fraudulent registrations.

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2. We recommend that the legislature give consideration to the establishment of a Central Information Bureau.

Advice on sources of information and methods of procedure jointly developed by this Grand Jury and the Office of the Supervisor of Registration will be passed on to the next grand jury with the recommendation that they check from time to time on their effectiveness or improvement to the end that our registration lists will be constantly as free as possible of unqualified voters.

Respectfully submitted,

DADE COUNTY GRAND JURY
FALL TERM, A. D. 1951

By RAY T. STERLING
Foreman

ROBERT C. MacDONELL
Clerk

DATED this 30th day of April, A. D. 1952.

Judge Willard's Expression on a Prior Grand Jury

An interim report involving the Hiram Johnson Grand Jury's actions is appended.

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

On Tuesday, April 29, 1952, the case of Hiram Johnson, alleged Negro gambler, charged with perjury by the previous Grand Jury, was presented in Criminal Court before Judge Ben C. Willard. Judge Willard quashed the information, and commented disparagingly on the ability

and integrity of the previous Grand Jury. In view of the seriousness of the implications, this Grand Jury immediately conducted an investigation of the facts.

The merit of the legal decision made by Judge Willard in quashing the information filed is not questioned by this Grand Jury, nor are we concerned with it here. The information has been revised and refiled.

We are concerned, however, with certain remarks of Judge Willard addressed to Mr. Al Brenner, who, as Foreman of the previous Grand Jury, appeared as a witness before the Court. From the official Court transcript of proceedings, these remarks are found to consist of terming "ridiculous" the action of the previous Grand Jury in indicting for perjury only one witness and no others, and of concluding that "I don't see why you couldn't get other evidence IF YOU HAD WANTED IT."

We are very concerned over his characterization of the previous Grand Jury's action and intent. A Grand Jury is helpless if shorn of its ability to penalize by effective indictment any person committing perjury before it. Without a swift and sure penalty for perjury, who but the innocent would tell the truth? Johnson was being tried for perjury, and nothing more, in this instance. To ridicule that weapon in even one case of perjury weakens the Grand Jury as an effective instrument of our system of government.

We are aware that records show Judge Willard has stated a strong desire to have brought before him persons higher up in the chain of influence of organized crime. We allow for an attitude of impatience and frustration in his apparent desire to place blame for illegal operation on the shoulders of those higher-ups responsible. However, in embarking on an investigation of organized crime with high monetary stakes, it normally is necessary to start inquiry with the lower echelons of the organization to reach the

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top figures, their hidden associates, and unfaithful public officials. That is precisely what the previous Grand Jury was doing when it questioned Hiram Johnson, a man of unsavory reputation and of some apparent influence in criminal activities in the Negro section. Had he testified truthfully, a way might have been opened to reach those higher in the scale of criminal influence.

Only the members of an active Grand Jury can know what lines of investigation are under way, and what ends are in view. The collective good sense and honesty of purpose of the citizens composing a Grand Jury must, of necessity, be relied upon. To do otherwise, by implication, cannot but weaken the effectiveness of succeeding Grand Juries.

This Grand Jury has no reason to doubt the legal ability of Judge Willard. We further recognize the probability that his manner of expressing himself may not have been as carefully considered as was his decision on the law in this case.

We find, however, that his method of expression and the sense of his remarks to Mr. Brenner concerning the previous Grand Jury were improper, unjustified, and not in keeping with the high standards of dignity and decorum which the citizens of this County have a right to expect of their judicial officers.

Respectfully submitted,

DADE COUNTY GRAND JURY
FALL TERM, A. D. 1951

By RAY T. STERLING
Foreman

ROBERT C. MacDONELL
Clerk

DATED this 12th day of May, A. D. 1952.

Capital Cases

The following criminal cases were considered and disposed of by the action indicated opposite each:

LORENZO LOWE (Colored)—First degree murder:
Returned 4 Dec. 1951—Acquitted.

CLEVE ALEXANDER (Colored)—First degree murder:
Returned 4 Dec. 1951—Manslaughter—15 years

TOMMY L. JACKSON (Colored)—First degree murder:
Returned 24 Jan. 1952—Acquitted

IRA HARDING (Colored)—First degree murder:
Returned 24 Jan. 1952—Nolle prossed

WILLIE HOWARD (Colored)—First degree murder:
Returned 24 Jan. 1952—Acquitted

DOUGLAS D. CARROLL (White)—First degree murder:
Returned 21 Mar. 1952—2nd degree murder—99 yrs.

LOHNAS R. VanWAGNER (White)—First degree murder:
Returned 7 Apr. 1952—2nd degree murder—30 yrs.

SALVATORE N. ASCOLESE (White)—Second degree murder:
Returned 4 Dec. 1951—Referred to Criminal Court (County Solicitor)

ERNEST BURTON SMITH (Colored)—Second degree murder:
Returned 4 Dec. 1951—Referred to Criminal Court (County Solicitor)

HORACE CANADY (Colored)—Rape:
Returned 24 Jan. 1952—Awaiting trial

WALTER NOLAN (White)—Rape:
Returned 22 Feb. 1952—Nolle prossed

WILLIAM T. BRYANT (Colored)—Rape:
Returned 8 Apr. 1952—Awaiting trial

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W. O. FRAZIER (White)—Violation Public Utilities Arbitration Law:

Returned 11 Feb. 1952—Referred to Criminal Court (County Solicitor)

D. Q. LEE (White)—Violation Public Utilities Arbritation Law:

Returned 11 Feb. 1952—Referred to Criminal Court (County Solicitor)

MICHAEL J. SPELLMAN (White) — False Swearing in Connection with or arising out of registration as a voter:

Returned 30 Apr. 1952—Referred to County Solicitor Criminal Court

JACK HOUCK (White)—False Swearing in connection with or arising out of registration as a voter:

Returned 30 Apr. 1952—Referred to Criminal Court (County Colicitor)

BETTY JANE SMITH (White)—NO TRUE BILL:

Returned 8 Apr. 1952

DAVID C. JOHNSON (Colored)—NO TRUE BILL:

Returned 8 Apr. 1952

DAVID BARNES (Colored)—NO TRUE BILL:

Returned 8 Apr. 1952

FLORIDA POWER & LIGHT CO.—NO TRUE BILL:

Returned 18 Apr. 1952

CHARLES WESLEY JOHNSON (White)—Kidnapping for Ransom:

Returned 7 May 1952—Awaiting trial

Other Conclusions and Recommendations

1. Careless or unnecessary disclosure of Grand Jury testimony is so detrimental to public trust in the confidential character of the Grand Jury that we strongly recommend to the courts a careful costruction and strict interpretation of

the "in furtherance of justice" exception to secrecy of Grand Jury testimony. As a policy, we suggest that Grand Juries not recommend release of testimony by court order for administrative action.

2. The development of the Bureau of Criminal Investigation under the Sheriff's office has been followed with close interest. Its effectiveness and value, since it began functioning during our term, has been demonstrated, particularly in capital cases. We recommend that all municipal police departments understand it operation and capabilities, and cooperate fully with its skilled technicians for the benefit of their own jurisdictions and the County as a whole. We further recommend that the Budget Board and County Commission continue their support with necessary funds.

3. We recommend to the succeeding Grand Juries the desirability of pursuing certain basic policies outlined in this report. They are broad in scope, but fundamental and long range in character. Specifically we recommend such a code of basic policies be maintained by modofication and expansion as necessary, in an up-to-date form, for assisting and facilitating the work of future Grand Juries.

4. Merger of the office of State Attorney and County Solicitor is recommended to voters in the November, 1952, election.

5. We reiterate the need expressed by our predecessors for adequate quarters for the Grand Jury. With the unique new law under which we now operate providing for continuing Grand Juries and with the attendant setting up of permanent files for the Grand Jury's exclusive and secret use so that long range inquiries may be undertaken, the need for permanent adequate quarters becomes even more acute.

6. Like previous Grand Juries, we felt snowed under by the press of work demanding our attention. Capital cases alone required our full attention for about one-third of our 61 regular meetings. A number of requests by private citizens

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to appear before us we were just physically unable to comply with. Some long term investigations not mentioned in this report were considered of such importance that, despite the personal sacrifices entailed, the Grand Jury, by uanimous vote, made known to the Circuit Court the willingness of its members to extend its term additional months to expedite completion. The Circuit Court judges, sitting en banc, decided it was legally impossible to do so. In view of the above, particular attention is invited to our recommendation No. 7.

7. Greater Miami and Dade County is becoming a major metropolis of the nation. Its continued rapid expansion has made the budgets of some departments of the local government among the largest in the State of Florida. The large population of over half a million already makes its government and administration highly complex. One penalty of size and complexity is increased liability of crime and mal-practices. Recent Grand Juries have uniformly expressed frustration with the magnitude of the local situation in carrying out their responsibilities of safeguarding the public interest. We believe the time is now ripe to consider the advisability of legislation authorizing two simultaneous Grand Juries for Dade County. We recommend a study of this innovation.

Legislative Recommendations

1. The work of Grand Juries would be greatly facilitated and expedited if Special Counsel it might engage could be present in Grand Jury meetings to advise and help in interrogation of witnesses. At present State Attorneys and their assistants are the only persons legally allowed for that purpose, and they should continue to have that function in most matters under inquiry. However, in those special investigations for which special counsel may be engaged by the Grand Jury with funds now provided for that purpose, both logic and experience dictate the advisability of authorizing the Grand Jury to allow at discretion such special counsel's presence as an Acting State Attorney before the Grand Jury. The average citizen serving on a Grand Jury is not a trained interrogator. When delicate or complex matters are under inquiry the value of

the special counsel conducting the investigation is vitiated to a great degree if he is not permitted to pursue the matter with witnesses before the Grand Jury.

We therefore strongly recommend remedial legislation in the premises, with due safeguards of oaths to bind such authorized special counsel to secrecy.

2. Some mileage reimbursement to Grand Jurors is urgently needed to mitigate the losses now incurred by those living in distant parts of the county. Currently mileage is paid for only one round trip on the first meeting day. In the light of our own experience, and reiterating views of previous Grand Juries, we strongly recommend legislation to provide reasonable mileage reimbursement for each regular Grand Jury meeting attended.

Respectfully submitted,

RAY T. STERLING
Foreman

ROBERT C. MacDONELL
Clerk