

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

SPRING TERM A. D. 1958

FINAL REPORT OF THE GRAND JURY

Filed

November 12, 1958

Circuit Judge Presiding

WILLIAM A. HERIN

Officers and Members of the Grand Jury

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GERALD M. PENNEY, Vice Foreman

MARION P. HURST, Treasurer

PIERCE W. MARTIN, Clerk

SANDY H. SAUNDERS, Assistant Clerk

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FREDERICK W. CAMPBELL

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ELSIE MAE MONTGOMERY

ARTHUR H. PATTEN, JR. (Excused)

STEPHEN J. PETRUFF

RICHARD L. POOR

ERNEST E. PRICE

BENJAMIN PUMO, JR.

WILLIAM F. ROGERS

WARREN A. SMITH

ROY W. SPENCE, JR.

FRANCIS STOTT

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Bailiff

W. RUFUS HOLZBAUR

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TO THE HONORABLE WILLIAM A. HERIN, CIRCUIT JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

This Grand Jury was impaneled on May 13, 1958, and administered the following  
Oath by the Court:

"You, as grand jurors for the body of this  
County of Dade, do solemnly swear that you  
will diligently inquire and true presentment  
make of all such matters and things as shall  
be given you in charge; the counsel of the  
State of Florida, your fellows and your own,  
you shall keep secret, unless required to  
disclose the same by some competent court;  
you shall present no man for envy, hatred or  
malice, neither shall you leave any man un-  
presented for love, fear, favor, affection,  
or hope thereof, but you shall present things  
truly as they come to your knowledge, accord-  
ing to the best of your understanding. So help  
you God."

Thereafter, the Court charged the Grand Jury as to its duties, and we have  
faithfully endeavored to abide by our Oath and to follow the charge given to us by  
the Court; and for legal advice in connection with our duties, we have sought the  
assistance of the State Attorney and his staff.

Pursuant to our Oath of Office, we have worked diligently and heard many  
matters which came before us, and we now make this our Final Report to the Court  
as follows:

Disposition of Capital and Criminal Cases Heard by this Jury

<u>Defendant</u>	<u>Charge</u>	<u>Action Taken</u>
FRANK ANTHONY AMARAL ) FRANCIS HAYWARD GOSNELL) JANVIER CHARLES KNOWN ) FRANCIS RICHARD PAYNE )	Rape - 5 Counts	True Bill
GEORGE WILLIAM MILTON	First Degree Murder	True Bill
A. ROBERT WATERS	Rape	True Bill
FERMON LEE	Rape	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Action Taken</u>
WADE W. MARLOW	Manslaughter	True Bill
WADE W. MARLOW	Manslaughter	True Bill
JOHN PENDERGRASS	Second Degree Murder	True Bill
JAMES ROYAL	Rape	No True Bill
JOSEPH LOUIS GIBSON	First Degree Murder	True Bill
EVELYN CASTLE	First Degree Murder	True Bill
JOHN LEE	First Degree Murder	True Bill
BOYZIE HERRING	Second Degree Murder	True Bill
BENNY WIMS ) HENRY STALLWORTH ) JOE MAXWELL )	Rape	True Bill
ANTHONY THEODORE BELL	First Degree Murder	True Bill
JOHN CARL NEWSOME	First Degree Murder	True Bill
ELEHUE SMITH, also known ) as TRUMAN SMITH; DAVIS ) ALEXANDER CLARK, also ) known as "MONK"; ALFRED ) ELLINGTON DUNCAN, also ) known as "DONC", and ) ARTHUR LEE FARRINGTON, ) also known as "POOPIE" )	Rape	True Bill
BENNIE D. MERN, also known ) as BENJAMIN MERN )	Second Degree Murder	True Bill

BOMBING OF SYNAGOGUES, CHURCHES AND SCHOOLS

Pursuant to a special charge by Judge William A. Herin, we have filed previously an Interim Report recommending the strengthening of the Florida Statutes which govern possession of explosives. We wish to add our voices to those that have already been raised against this un-American lawlessness. We urge our police agencies to continue full time their efforts to apprehend the persons responsible for these acts of terrorism that shock the sensibilities of all decent Americans:

It is ludicrous that these criminals should attempt to associate themselves with the "Confederacy". The men who fought valiantly for their way of life in 1861 and subsequently would have been among the first to condemn these cowards who use the cover of darkness for their acts of anarchy. These depraved acts give aid and comfort to those who seek to do away with the American way of life. Every effort must be made to arrest and convict them.

#### AUTONOMY AMENDMENT CAMPAIGN

The Grand Jury has investigated the political campaign carried on by officers and employees of the City of Miami advocating the support of the proposed Autonomy Amendment in the election held September 30, 1958.

The City Commissioners of the City of Miami adopted a Resolution calling upon the people to support the Autonomy Amendment; however, this Resolution did not authorize the expenditure of any funds of the City, nor direct any officer or employee of the City to actively support the Autonomy Amendment.

The Grand Jury finds that the City of Miami admits a total of \$2,593.23 of municipal funds spent in this campaign. In addition, the Dade League of Municipalities spent approximately \$32,000. Not included in the above expenditure was the time spent by City employees in addressing letters, distributing propaganda, putting up signs, operating a telephone service, and operating a car pool for the purpose of transporting voters to the polls. The City Manager attempts to justify the expenditure of these City funds, and the use of time of City employees, on the grounds that this course of action was authorized by the Resolution passed by the City Commission and an opinion rendered to him by the City Attorney concerning this matter. It is the position of the City Manager that he was authorized to declare this matter an emergency and expend these monies from the contingency fund of the City of Miami. Regardless of the legality of these expenditures, the Grand Jury is concerned with the advisability of any municipality using municipal funds and municipal employees to conduct any political campaign.

We recommend that all governmental bodies in Dade County refrain from expending public monies, using motor vehicles and other facilities and the time of public employees in carrying on any political campaign in the future. Further, that necessary legislation be adopted to expressly prohibit the spending of tax money for such purposes.

#### ELECTION CONTROVERSIES

During our term as Jurors, a state and county election was held. We were plagued by numerous candidates for public office who sought to use the Grand Jury to publicize their campaigns. With one exception, the complaints filed with us were not within our province under the law.

We are of the firm belief and recommend most vigorously to our successors that Grand Juries should avoid taking jurisdiction of election controversies except as required by statute. Every Grand Jury must be vigilant to see that it is not used for political purposes and that its opinion is not substituted for the opinion of the electorate.

#### VOTERS' REGISTRATION LISTS

This Grand Jury has received complaints that voters' registration lists were not available to some of the candidates for political office in the recent September primary election.

This Grand Jury found no willful or corrupt acts in connection with the failure to furnish voters' registration lists. We did find that it was impossible to prepare such lists in the time allowed. This failure was caused by the obsolete addressograph equipment for preparing such lists, the complexity of the ballot, the overlapping of County Commission Districts (partially in the City, and partially in the County), and the recent change in the administration of the Registration Office. We feel the cornerstone of democracy lies in an informed electorate, and, therefore, such lists should be made available to all candidates.

We recommend:

1. A change in the precinct boundaries in Dade County so that no precinct will overlap into two County Commission districts;
2. Modern equipment should be purchased by the County for preparing an adequate number of voters' registration lists;
3. That a time be fixed prior to the election when all requests for voters' registration lists must be in the hands of the Registration Office, together with a deposit to cover the cost of preparing such lists.

#### BOLITA

During our term as Grand Jurors, we have devoted considerable time and effort to the ever present problem of bolita.

We adopt the position of the past Grand Jury that bolita can be greatly curtailed upon the demand of governmental bodies, relayed through the City and/or County Manager to the responsible law enforcement agencies.

We have used facilities available to us to investigate and keep pressure upon persons known to be in the higher echelon of the bolita racket. We urge our successor to continue this program.

The full and final responsibility for the suppression of this illegal activity rests upon the police agencies. There must be constant vigilance by the law enforcement departments. This job can and must be done. Nothing is more important than the extinction of organized crime.

This Jury does not find that there is a need for new legislation to curb bolita. If the appellate courts of this state would adopt a more liberal view on the admissibility of evidence, seized from persons engaged in illegal activity, it would be a boon to enforcement. In addition, we firmly believe that all persons who are engaged in the bolita racket at any level should receive jail sentences, after conviction. We are convinced that this racket could not survive if the people employed as sellers, runners, etc. knew they would receive jail sentences, upon conviction.



### TRAFFIC SAFETY

This Grand Jury during the course of its term has rendered an Interim Report concerning traffic safety. Embodied in that report were ten recommendations to the State Legislature and other governmental agencies.

We are pleased to note that at a recent meeting of the Legislative Council Committee on Highway Traffic Safety, they adopted many of the recommendations made in our Interim Report.

We take this opportunity to reiterate and urge all civic organizations and governmental agencies interested in traffic safety to promote the passage of legislation as adopted by the Legislative Council Committee on Highway Traffic Safety.

### DADE COUNTY WELFARE DEPARTMENT

After being advised of an investigation conducted by the County Manager's Office into the operation of the Dade County Welfare Department, this Grand Jury commenced an investigation into the operation of that department to determine if public funds were being misused or mishandled.

Our inquiry determined the following:

1. Ineffective supervision of many Welfare Department employees.
2. Loose handling of prescriptions for Welfare patients. In some cases three weeks passed between the time a prescription was ordered and actually delivered.
3. Duplication of expensive prescriptions.
4. Excessive purchase of expensive drugs which were never used.
5. Partiality shown to some operators of Convalescent and Nursing Homes.
6. In a few cases, unsanitary conditions were found to exist in some Convalescent and Nursing Homes.

This Grand Jury made full inquiry and cooperated with the County Manager's Office in effecting remedial action concerning the aforementioned conditions.

The County Manager, after being advised of the conditions found to exist, reorganized the operation of the Dade County Welfare Department and corrected

those conditions detrimental to efficient operation of the department.

We wish to commend the corrective measures established by the County Manager's Office which will result in a great savings to the taxpayers of Dade County. In addition, operation of this department will be more in line with its intended purpose.

#### PROPOSED DODGE ISLAND PORT

The Grand Jury made an investigation of the proposed Dodge Island Port, which was limited to an inquiry as to whether or not there was any irregularity, wrongdoing or criminal violation in connection with the City of Miami constructing a port at Dodge Island.

We returned and filed with the Court an Interim Report, dated July 22, 1958, in which we reported that our investigation did not disclose any irregularity, wrongdoing or criminal violation in connection with the proposed Dodge Island Port. We also found there is an urgent need for adequate port facilities for Dade County, and called upon the citizens of this community to wholeheartedly support this worthy project, and we again urge the building of an adequate Port as soon as it is feasible to do so.

In this Interim Report we also recommended the establishment by the Dade County Metropolitan government of a Planning Board to handle matters relating to the future development of Dade County, such Planning Board to be set up in a manner that would make it entirely free of politics.

#### PURCHASE OF FURNITURE AND FURNISHINGS BY THE BOARD OF COUNTY COMMISSIONERS

During this term of the Grand Jury, the five-man Board of County Commissioners purchased new furniture and furnishings for the Board's meeting room and private offices of some of the commissioners. This matter was called to our attention and investigated by us. We found that in making these purchases the Board of County

Commissioners did not follow the established procedure of asking for bids or making the purchases through the Purchasing Department. They endeavored to justify their action on the theory that they employed an interior decorator to decorate the meeting room and offices and to purchase all furniture and furnishings used for this purpose.

While the Grand Jury believes that it is efficient business practice for the County to buy good and sufficient furniture and furnishings, we think the purchases made by the Board were overly elaborate. We also believe that the method followed by the Board in purchasing this furniture and furnishings circumvented the established procedure of purchasing through the County Purchasing Agent or asking for competitive bids. A better practice would have been to employ an interior decorator, if needed, then to purchase the furniture and furnishings on competitive bids or through the Purchasing Department.

#### FINGERPRINTING OF SCHOOL PERSONNEL

The Spring and Fall Term 1957 Dade County Grand Juries recommended the fingerprinting of present and prospective school board employees. On July 10, 1958, we filed an Interim Report making the same recommendations. After considerable delay, this program was initiated in Dade County.

#### RECOMMENDATIONS

Reiterating the previous Juries' recommendations and the Interim Report filed by this Grand Jury, we again urge the State Legislature to enact a state law requiring all present and future school board employees to be fingerprinted, photographed, and a thorough investigation conducted into their history to protect our youth from those persons having a record of moral turpitude.

### ZONING

This Grand Jury has received a number of complaints concerning restrictions on obtaining building permits from the building and zoning department of Dade County. Following these complaints, the Grand Jury made a thorough investigation of these matters and found no wrongdoing on the part of any official or employee concerning the application of zoning laws. The zoning laws, themselves, are quite broad and give great discretionary power to the zoning officials. We find that these zoning officials have exercised that power, as they interpret it, towards improving Dade County. It may be that the rights of individuals have to some degree been sacrificed for the rights of the community as a whole. For example, the small property owner is often called upon to dedicate land to the county for roads, even though the county, as a whole, benefits more than the property owner. It is not within our province, however, to determine this question, as this is a matter for legislative action by the County Commissioners. Therefore, it is our recommendation that the new County Commission re-examine the entire field with a view towards a more equitable law concerning the dedication of property to the county by the small property owner.

### LABOR UNION CONFLICTS

This Grand Jury, as many have in the past, received numerous complaints from union members regarding differences with the Union of which they were members. We followed the procedure established by our predecessors and referred all differences of that nature to the Union where machinery for the purpose of adjudicating these differences exist. This was in accord with an opinion from the Attorney General of the State.

We have noted that the State Attorney has been active in his effort to combat violence in management-labor relations. It is obvious that if the Unions do not eliminate violence within their own ranks, the cause of labor in general will suffer

greatly in the eyes of the public. We trust that local law enforcement agencies will be vigilant to see that no attempt is made to organize by violence, where lawful methods fail.

#### HIALEAH MUNICIPAL COURT

Prompted by complaints from citizens of Hialeah, this Grand Jury has conducted an investigation into certain aspects of the handling of cases in the Hialeah Municipal Court. At the outset of this inquiry, we were cognizant of the fact that it is not our prerogative to substitute our decision for the decision of a court of competent jurisdiction.

Testimony revealed continual conflict between the Court and members of the Hialeah Police Department. There is no problem facing the people of Dade County greater than law enforcement. Good law enforcement is seriously handicapped when there is ill feeling between police officers and the court. The Hialeah City Council should demand that the police department and court resolve their differences and conduct themselves in a manner commensurate with their respective responsibilities.

#### PUBLIC BUILDINGS AND INSTITUTIONS

As a part of the duties of the Grand Jury, we have made an inspection of the following buildings and facilities:

1. Jackson Memorial Hospital - We found the personnel to be progressive and high morale was in evidence. We commend the advanced type of program for prognosis of diseases. There is an acute shortage of rooms in the convalescent and rehabilitation divisions of the medical department and we recommend the proposed plan to make provision in the budget to provide 240 beds. An extensive program is in progress to relieve the crowded facilities, but due to expanding growth of the community, by time of completion it will again be inadequate. The original building and its equipment is in need of painting. We are advised that

funds for this purpose are now available and recommend that this work be done as soon as possible.

2. Dade County Jail - We found the operation of the Dade County Jail to be satisfactory considering the inadequacy of the facilities. The food served to the prisoners appears to be adequate and the sanitary conditions of the jail are good considering the accrued maintenance, which should be taken care of as soon as is practicable. The jail is overcrowded, especially during the winter season; however, safety provisions are adequate. We understand that the money for building a new jail is available and recommend immediate construction of this building.

X 3. Juvenile and Domestic Relations Court and Youth Hall - The facilities of the Dade County Juvenile and Domestic Relations Court and Youth Hall are overcrowded. Money has been appropriated towards the expansion of the facilities and this should be done promptly. We call attention to the remarks made by our predecessors in regard to additional personnel and wish to reiterate their recommendations.

4. Dade County Facilities at Kendall - This Grand Jury inspected the Dade County Home for the Aged and Infirm, the Department of Public Welfare, consisting of the Dade County Hospital, Dade County Homes and Schools for Homeless and Delinquent Children. Our inspection was limited to the condition of the facilities and not to the use of the facilities. We found that the buildings were clean and orderly, and a balanced diet served in the dining room. The morale of those persons housed at Kendall is excellent.

5. City of Miami Stockade - Our inspection of the City of Miami Stockade revealed a well run, orderly and modern institution, with a building program for additional facilities. This institution is a model of its type and could well be emulated by others.

6. Dade County Stockade - The Dade County Stockade has been the subject of previous Grand Jury reports and the subject of an investigation by the State Attorney's Office. While there has been no improvement in the size of the facilities, the Grand Jury did note that the institution is now clean; that the food is adequate and the prisoner morale very high. We believe that an entirely new stockade should be built with adequate facilities to aid in the rehabilitation of prisoners. We wish to commend Lieutenant Russell T. Sims for the efforts that he and his staff have made towards the correction of previous complaints.

IN APPRECIATION TO THE COURT

The Grand Jury wishes to express its appreciation to the Honorable William A. Herin, Circuit Judge, assigned to this term of the Grand Jury. When we were impaneled, Judge Herin instructed us as to our duties in an excellent and inspiring charge that greatly assisted us during our term. He was most cooperative and considerate at all times. During the absence of Judge Herin while on vacation, we were fortunate to have his most able alternate, the Honorable Grady L. Crawford, Circuit Judge, to advise and assist us.

E. B. LEATHERMAN  
CLERK OF THE CIRCUIT COURT

We are indebted to the Honorable E. B. Leatherman, Clerk of the Circuit Court, and his office staff for the courtesy and cooperation extended to the Grand Jury and wish to express our appreciation.

ADMINISTRATIVE ASSISTANT - BAILIFF

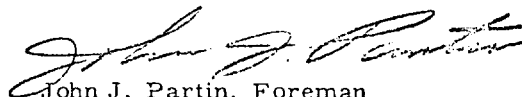
We wish to express our appreciation to our Administrative Assistant and Bailiff for the cooperative manner in which they performed their duties to the Grand Jury.

STATE ATTORNEY

In conclusion, the Grand Jury wishes to commend most highly State Attorney Richard E. Gerstein and Assistant State Attorneys John C. Wynn, Thomas G. O'Connell and George E. Orr, as well as the remainder of the State Attorney's staff, with whom it was our pleasure to work during the Spring Term of the Grand Jury. Seldom does one have the privilege of working with men of such outstanding integrity. Their devotion to duty and their unceasing effort to cooperate in every way with the Jury was greatly appreciated. It is reassuring to find such men as Mr. Gerstein demonstrating that the Force of Law, rather than the Law of Force, continues to prevail in this county.

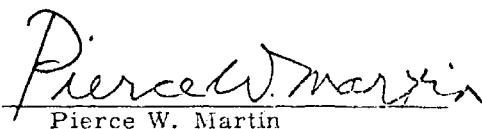
As pointed out by our predecessors, the present physical facilities of the State Attorney's Office are inadequate. Money is presently available for the construction of the new Jail and Criminal Courts' Building, which would correct this inadequacy. We urge that the county speed the construction of this new building.

Respectfully submitted,



John J. Partin, Foreman  
Dade County Grand Jury  
Spring Term 1958

Attest:



Pierce W. Martin  
Clerk

Dated: November 12, 1958