

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

FALL TERM A. D. 1962

FINAL REPORT OF THE GRAND JURY

Filed

May 14, 1963

Circuit Judge Presiding

JOHN J. KEHOE

Officers and Members of the Grand Jury

EDGAR CHARLES JONES, Foreman

WALTER I. STEVENSON, Vice Foreman

F. J. FISHER, Clerk

WILLIAM E. CARPENTER, Asst. Clerk

WILLIAM BARAKET, Treasurer

WILLIAM F. BLAYLOCK

KENNETH B. BURRITT

CLYNE C. CHAMBERS

MILAN D. CHAPMAN

O. W. COLLINS

CLODIA COOPER

EDWIN S. CROOKS

PHILIP A. DAVIS

ROBERT W. FREMONT

HERBERT S. GIMBEL

JOSEPH R. MARTIN

IDA W. MELTZER

JOAN G. PARTIN

GEORGE J. POULOS

RAY E. REDMAN

JAMES S. ROSSER

GERTRUDE L. TALLMAN

INOUS J. VICKERS

\*\*\*\*\*

State Attorney

RICHARD E. GERSTEIN

Assistant State Attorneys

JOHN C. WYNN  
SEYMOUR GELBER  
GEORGE EADIE ORR  
ROY LEE JONES

\*\*\*\*\*

Clerk of the Circuit Court

E. B. LEATHERMAN

\*\*\*\*\*

Administrative Assistant

ELEANOR M. ROBINSON

\*\*\*\*\*

Official Court Reporter

JACK W. MALLICOAT

\*\*\*\*\*

Bailiff

W. RUFUS HOLZBAUR

INDEX

<u>SUBJECTS</u>	<u>PAGES</u>
1. TAX ASSESSOR'S OFFICE	3-8
2. DEPARTMENT OF TRAFFIC ENGINEERING	9-10
3. DEPARTMENT OF PUBLIC SAFETY	11
4. CUBAN SITUATION	12-13
5. YOUTH HALL & CHILDREN'S HOME AT KENDALL	14-15
6. ELECTION COMPLAINTS	16
7. INTERIM REPORTS	17
8. ACKNOWLEDGMENTS	18-19

TO THE HONORABLE JOHN J. KEHOE, CIRCUIT JUDGE  
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

In addition to the reports of investigations outlined in the report, the Grand Jury looked into many other matters brought to our attention. We consider the Grand Jury the one official body designed primarily to be available to all citizens. Every letter written to the Grand Jury is read to the entire body and the Grand Jury acting as a whole makes the appropriate disposition.

In some cases the Jury has no authority over the matter, or it may be a personal grievance between two individuals. The Jury will not become a party to such controversies. Where an individual has redress in a Court or is unhappy with the ruling of a Court, the Jury cannot assume jurisdiction.

As evidenced by this report, the Grand Jury is concerned with the operation of government as it relates to the community as a whole and as it relates to each individual citizen.

Grand Juries can best function in an atmosphere where citizens are willing to speak out against injustice. The machinery is available and is as close to you as your mail box.

\* \* \* \* \*

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
JOHNNIE LEE HARRIS	First Degree Murder	True Bill
WILLIE EDWARD LAWRENCE and GERALD LEE FISHERMAN	First Degree Murder	True Bill
DONALD MATTHEW WOOD	First Degree Murder	True Bill
GEORGE JEROME WOOD	First Degree Murder	No True Bill
ALFRED ANTHONY HUNTER	Rape	True Bill
ALFRED ANTHONY HUNTER	Rape	True Bill
HOWARD ANDREW GRIFFITH	First Degree Murder	True Bill
JUAN LUGO, also known as JUAN LUGO HERNANDEZ	Manslaughter	True Bill
EMILY LEWIS, also known as EMILY MINNS	Second Degree Murder	True Bill
LEONARD L. LEMKE, JR.	First Degree Murder	True Bill
RANCE JAMES ANDREWS, also known as R. J. ANDREWS, also known as ROY JOHN ANDREWS	Rape	True Bill
JOSIE MAE MILLER	First Degree Murder	True Bill
JOHN HENRY ROBINSON	Rape	True Bill
LARRY MELVIN MAKINGS	Second Degree Murder	True Bill
OTICE MOORE TAYLOR	Rape	True Bill
CLYDE R. HUSK	Bribery	True Bill
EUGENE PARKS, also known as EUGENE A. PARKS	First Degree Murder	True Bill

TAX ASSESSOR'S OFFICE

The operation of the Tangible Personal Property Department of the Tax Assessor's Office came before the Grand Jury as the result of charges that undue influence may have been exerted upon an employee of the Tax Assessor's Office by a private tax consultant. We found insufficient evidence to warrant a criminal indictment.

We did, however, uncover an appalling situation that for many years and several administrations has been in existence. While our County has made tremendous strides in some areas and has adopted an entirely new concept of government, the Tax Assessor's Office continues to function with outmoded methods of operation. Our investigation was limited to the taxing procedures relating to stock inventory and equipment in commercial businesses. There has been considerable criticism of the inventory tax, but we have addressed ourselves not to the fairness of the tax but to the preparation of the tax roll. Our comments here are limited to that subject and are not applicable to real property assessments.

The Tax Assessor's Office establishes a tax roll based on valuations derived from several sources. Agents of the assessor's office make personal evaluation of the inventory and fixtures. The taxpayer also may provide an estimate of the value as well as records substantiating his estimate. To this information, as well as other government records, the Tax Assessor applies a formula from which comes the valuation. This figure is applied to the tax millage rate and the result is the assessment made against the taxpayer. There should be certain standards used in determining value of inventory and equipment, but no matter the effort to be exact we are aware that this is more a matter of judgment than a question of applied

science. We, therefore, can well understand differences that may arise as to individual assessments. Common sense would deter us from substituting our opinion for the assessors in the area of determining a proper tax roll. We are, however, appalled at the archaic methods in use in that office. Whereas technology has produced mechanical computers that have revolutionized our work programs, the Assessor's Office plods along with their 'one file system,' oblivious to progress. We might accept the antiquated approach, but when you add the ingredients of sloppiness, indifference and neglect, the call for a drastic change is more than merely a preference for progressive methods.

The experience of a leading department store typifies the problem. In 1960 their tax was based on inventory and equipment valued at one million dollars. In 1961 a new branch store was added with inventory and equipment of several hundred thousand dollars. Notwithstanding the addition in 1961, the tax assessment upon which the tax would be computed was lowered considerably. Despite additional branches being added since then, the tax has remained the same through 1962. It has been estimated that this company received a reduction of almost a half million dollars in the valuation of its tangible personal property. The Grand Jury made a thorough investigation of this particular reduction and found no reasonable basis upon which it was granted. In further study of other business establishments, the Grand Jury found this lack of corroborative evidence to substantiate a reduction to be the rule rather than the exception.

The entire tax record of each commercial establishment is maintained on a 5 x 8 file card. If a card is lost or destroyed, the information on it cannot be replaced by ordinary means. Notations

on these cards are made in pencil and crayon with no indication of the person responsible for the entry. Numerals are erased, crossed out or replaced without accountability.

The back of these 5 x 8 cards presumably carries the comments of the field inspectors who determine the valuations. Field inspectors are charged with the responsibility of keeping up to date the estimates of inventory. Not one of the cards available to the Grand Jury showed anything other than the marking 'same' which we learned to mean that no inspection had been made and that the inventory record would be the same as the previous year. We cannot expect that a field inspector can physically appraise the millions of dollars of inventory that today exist in one department store, but we need not delude ourselves that this inspector by scribbling on the back of a file card is properly performing his duty. A system should be devised so that accurate estimates may be made by a study of company records and/or other data.

The taxpayer may file a commercial tangible personal property tax return on or before March 31st of each year. This is optional, but failure to file a return results in a 10% penalty being imposed. We found some of the tax returns unstamped as to date of receipt, so that no record of late arrival could be proven. We also find notations of penalties arbitrarily removed from the 5 x 8 file card. There is no method of determining individuals responsible for certain entries. The file cards show a series of numbers, some crossed out, some written over erasures, some blue penciled, some red penciled, and some just indistinguishable.

At the request of the Grand Jury, the Dade County Office of Internal Auditing conducted a spot check on the assessments of seven local business organizations. Five of these assessments were



between \$25,000 and \$550,000 lower than the proper taxable value.

The reductions granted were substantiated by no memorandum of explanation or even computation of figures to justify the changes. Only a 5 x 8 file card existed with one pencil entry crossed through and replaced by a lower figure.

In each of these cases the Grand Jury found it impossible to ascertain who had made the decision and who had made the entry. Where a department of government keeps virtually no records, other than file cards upon which entries are not identified, then responsibility must attach itself to the entire system.

There appears to be no standard in use upon which reasonable estimates can be made. The State Comptroller's Office distributes a Tax Assessor's Guide which presumably is the 'book' for determining proper assessment. Yet when queried by the Grand Jury a high official of the Tangible Personal Property Department maintained consistently that the assessments and the lowering of the assessments were based on 'educated guess.' We reiterate that we are not unaware of the problems in assessment, but we cannot accept a principle that permits 'educated guess' or the whim or fancy of an individual to determine the base upon which we are taxed.

The Assessor's Office has, by law, available to it various Federal tax returns. These, as well as public financial statements by corporations, are other avenues by which a check and balance may be created. We found in our spot check that Federal tax returns in some instances were ignored, in some they were used as a basis for lowering of assessments and in other cases the Tangible Personal Property Department was unaware that another Department of the Tax Assessor's Office was in possession of the Federal Tax returns. As

to the information available through corporate financial statements, we found no evidence of its use by the Tax Assessor.

There appears a lack of written communication within the Department establishing and maintaining policy. We are told such memoranda of instructions to subordinates do not exist because of the complexity of the subject. It would appear that any properly operated organization requires prescribed rules under which to operate.

We have painted a harsh picture. It is not an exaggerated one. Thomas A. O'Connor, former Tax Assessor, refused to sign a waiver of immunity before the Grand Jury and therefor did not testify.

There is, however, some gleam of light. The County Manager and the Tax Assessor, Sam Elcook, are aware of this problem and have been aware of it for some time. It was the County Manager, through the State Attorney, who directed this problem to the Grand Jury. The Tax Assessor has shown a progressive attitude and is taking steps to revamp his department. Personnel changes have been made and improvements are visible. The County Manager has advised the Grand Jury that his office plans to establish a separate section, independent of the Tax Assessor, to assume the following responsibilities:

1. Determine that all changes to the tax roll are thoroughly documented.
2. Prepare and furnish all necessary information concerning tax litigation to the County Attorney's Office.
3. Assist the Assessor in formulating additional policy and procedures.
4. Keep a record of all local tax consultants and the properties they represent.
5. Determine that a complete physical control of the tax roll is always maintained.

In addition, the County Manager further testified that the Board of County Commissioners will be requested to approve the hiring of a consulting firm, of national reputation, specializing in assessment procedures to examine our system; to initiate such changes as are desirable and to provide continuous advice on the whole assessment matter.

The Grand Jury endorses these proposals by the County Manager and recommends immediate action. We are further convinced that an intensive in-training program is necessary for assessors, as well as an evaluation of the educational and experience requirements for personnel.

DEPARTMENT OF TRAFFIC ENGINEERING

This Grand Jury indicted Clyde R. Husk, charging him with Bribery. Husk formerly served as Dade County Traffic Engineer. The indictment was the result of alleged payments of money to Husk for the installation of a traffic light.

In a matter not connected with the Husk indictment, but involving the Office of Traffic Engineer, the Grand Jury investigated activities of members of the Board of County Commissioners to determine whether Section 3.05 of the Metropolitan Charter governing the conduct of County Commissioners toward administrative employees had been violated.

Several County Commissioners appeared before the Grand Jury, as well as present and past employees of the Public Works Department. We find no willful violation of Section 3.05 concerning Commissioners Thomas Sasso, Robert Brake, Milton Thompson and Arthur H. Patten, Jr.

The need for legislation that prevents County Commissioners from interfering with the operation of administrative offices is an obvious one. For example, pressures for the installation of a traffic light should not be directed from a Commissioner to a Traffic Engineer. The County Manager has review authority over the decisions of his subordinates and Commissioners should initiate all such inquiries with the County Manager.

There are portions of the present law, however, which can be construed as prohibiting even a request for information. The language and intent is vague and uncertain and should be reworded so that those who are governed by it may be certain as to their conduct. To subject a County Commissioner to removal from office for seeking information from a County employee is unrealistic.

The phrase "deal with" as used in this section fails to adequately

describe the relationship permitted between Commissioners and employees. It is too encompassing a phrase and may result in interpretations not intended by those who drew this Charter provision, nor is it necessary to protect the public interest. Further, only in this provision does the Charter call for so extreme a penalty as removal from office. Paradoxically, by its terminology, virtually any relationship between a Commissioner and administrator may cause a violation of this Section; yet the penalty clause requiring "willful" violation of this Section would make successful prosecution extremely difficult.

County government must be free of the shackles of ward politics. Similarly, our elected officials should not be handcuffed so that government is made remote from the citizen. Section 3.05 should be revised so that the spirit of its meaning remains intact; that is, County Commissioners shall not attempt to influence the appointment or removal of an employee or pressure employees to perform certain acts.

This we believe would carry out the intent of the framers of the Charter and conform to the realities confronting members of the County Commission.

DEPARTMENT OF PUBLIC SAFETY

On two occasions this Grand Jury has heard testimony wherein a former officer of the Department of Public Safety has been the central witness in controversial matters involving the Department. The officer in question, Leon McKim, held the rank of Lieutenant prior to his recent dismissal from the force.

McKim has now been accused of unlawfully removing a sanding machine from a warehouse which he was patrolling. McKim claims that he had previously received permission to borrow the sander, and that under a mistaken impression removed the sander from the wrong warehouse. Based on the testimony presented to the Grand Jury, there is insufficient evidence to support a criminal indictment against McKim. McKim is appealing his discharge from the Department before the Civil Service Board and our finding is not intended to clear him in these administrative proceedings.

McKim apparently has been a source of irritation in the Department of Public Safety. Nevertheless, we believe that an investigation surrounding such charges must be conducted in a judicious manner. Public employees, while subject to disciplinary proceedings, should have every protection and right afforded them. Criminal charges which are given considerable coverage in the press can result in irreparable damage to a man's career and reputation even though they may ultimately prove unfounded.

### CUBAN SITUATION

The Fall Term 1961 Grand Jury made a thorough investigation of the impact of the Cuban refugees on Dade County. At that time, the Jury stated:

"The Grand Jury is impressed with the total program and the efforts extended among Federal, state and local agencies."

We have since been informed by Congressmen Dante Fascell and Claude Pepper of the many thousands of Cubans who have arrived in Dade County and of these more than 50,000 have resettled in other communities. The Federal Government has expended 70 million dollars in behalf of the refugees and the next budget calls for an 80 million dollar expenditure. The influx of large numbers of people and great amounts of money has obviously influenced our economic and social structure. The 100,000 Cubans who now reside here have aided our economy by the use of Federal funds, as well as their own, but have increased our unemployment problem by replacing many Dade Countians in the labor market. The labor displacement has occurred particularly among the lower income wage earners and in some instances this has been a factor in the increase of crime.

We look back over the two years elapsed period and find that relocation is still the major problem despite the fact that today we are resettling refugees at a greater rate than they are entering the country. According to an announcement by the Director of the Refugee Program, more than twice the number have been resettled than have arrived since February 1, 1963. There still remain many thousands in Cuba waiting to leave and we must be prepared to accommodate them through a resettlement program when conditions permit their departure. The problem as to the manner in which exile groups will be permitted

to combat Castroism has caused considerable difference of opinion on a national level. Miami, as a cold war outpost, has thus had this added tension to overcome.

Money contributed by the Federal Government for public school education, vocational training, medical aid and outright dole has alleviated what could have been a severe financial strain on the community. We recommend that the Florida Delegation in Congress continue their efforts to enlist further federal participation.

In retrospect, we again quote the 1961 Fall Term Grand Jury report:

"Citizens and communities throughout America can show the world the respect and admiration held for those who in our own hemisphere have suffered temporary loss to communism."

The Cuban emigration has caused some friction in our community. This is a small price to pay in the overall conflict against a common foe. We must adjust ourselves to the situation and affirmatively seek ways to resolve our mutual problems. We have a right to expect our visitors to obey our laws and conform to our customs and we have a responsibility to lighten the load they have so adequately borne.



YOUTH HALL & CHILDREN'S HOME AT KENDALL

Virtually every Grand Jury has reported on the problems facing Youth Hall and Kendall. The recommendations have been accepted in some instances and rejected in others. We note that some of the recommendations of the 1962 Spring Term Grand Jury have been adopted and put into effect. These related to the enlarging of housing facilities at Kendall Children's Home; upgrading the salary scale for Kendall employees, and expanding the Foster Home Care Program.

Overcrowded conditions at Youth Hall remain a constant problem over the years. State facilities for juvenile delinquents do not begin to satisfy the space needs for Dade County. Our Children's Home at Kendall is a model institution, but apparently we have been unable to enlarge the facilities at a rate commensurate with the number of juveniles committed.

There are marked differences of opinion as to the approach to the solution of youth problems in this community. Among the many questions posed are these:

"Shall the Juvenile Court judges be administrative as well as judicial officers?"

"Will the enlargement of Youth Hall, rather than Kendall, solve the ills resulting from overcrowding?"

We do not presume to suggest that Juvenile Court judges limit their activities to that of determining guilt or innocence and imposing sentence. Nor do we take the converse position that the proper approach is for the personal involvement of a Judge in the social or mental problems of the youthful offender. This is a question of degree for the 'experts' to answer. We would expect that a competent jurist is both versed in the law and understands human nature. A Juvenile Court judge in order to function efficiently must, of course, permit maximum

participation by the probation officers, social workers and psychologists. The debated removal of the Judges' quarters to the new Metropolitan Justice Building would further remove the Judges from administrative control but we see no improvement of consequence, space-wise, resulting from that change.

In regard to the enlargement or the construction of a new Youth Hall structure, we find on the one hand complete disagreement between the County Manager's Office and the Juvenile Court judges as to the need for such a structure, and, on the other hand, a reluctance on the part of the County Commission to expend any large sums for such purpose. We do not pretend to have the answer but it would appear that any long range planning should include the construction of a complex of correctional facilities on the Kendall properties.

Whatever the answer, one thing is obvious. Unless immediate expansion plans are made that will include the anticipated population growth of Dade County, our juvenile delinquency problem will grow more acute. We must press the State to provide correctional institutions but in the absence of such cooperation, Dade County must move ahead and face the problem.

We offer no pat solutions. The greatest contribution that can be made at this time is to alert the public and our government officials at every level to the crisis we face if we continue to meet this problem in the lackadaisical manner now being pursued.

ELECTION COMPLAINTS

The Grand Jury investigated a complaint concerning the malfunction of a voting machine during the recent election for the State Legislature.

It was determined that a shield had been improperly clamped over the lever of a candidate's name with the result that it was physically impossible for the voter to cast his ballot for that particular candidate. There was no evidence of willful intent, nor could the number of votes cast on that machine have altered the results of the election.

Nonetheless, we must be certain that our voting machines, the very essence of our democratic process, are maintained by our election supervisors in a manner which permits the full exercise of the peoples' will.

INTERIM REPORTS

This Grand Jury issued three Interim Reports. On January 24, 1963, a report was filed absolving Assistant State Attorney Alfonso C. Sepe of wrongdoing in the manner in which he performed his public duties. State Attorney Paul B. Johnson of the 13th Judicial Circuit of Florida was assigned by Governor Farris Bryant as counsel for the Grand Jury and he presently is representing the Grand Jury in the Appellate Court where Attorney Ellis S. Rubin is seeking to expunge certain portions of the report relating to his actions.

On March 5, 1963, the Grand Jury issued a report relating to an alleged violation of the Dade County Charter concerning the degree of influence exerted by a County Commissioner over the County Manager's dismissal of a County employee. This was in reference to Commissioner Alexander Gordon's alleged participation in the removal of Sheriff Thomas J. Kelly from office. A further comment on this subject is made in the section relating to the indictment of Clyde R. Husk.

On April 30, 1963, the Grand Jury filed a report aimed primarily at the members of the Dade County Delegation in session in the Florida Legislature. This concerned the failure of the State of Florida to provide adequate state correctional facilities for delinquent youths. A request was made to the Delegation for passage of legislation to implement such a program.

### ACKNOWLEDGMENTS

We conclude this report with a deep and sincere expression of thanks to the Honorable John J. Kehoe, Circuit Judge. We appreciate his advice and counsel which has been of immeasurable assistance. At all times the Honorable John J. Kehoe was considerate, courteous and dignified, maintaining decorum in keeping with the highest tradition of his position.

The Honorable E. B. Leatherman, Clerk of the Circuit Court, and his staff have been most cooperative and diligent in assisting this Grand Jury.

This Grand Jury acknowledges with appreciation the able assistance of Paul B. Johnson, State Attorney of the 13th Judicial Circuit of Florida, on his special assignment to the Grand Jury by order of Governor Farris Bryant.

The Grand Jury system in order to function properly depends in great measure on an efficient system of records, correspondence and reports. Our Administrative Assistant, Eleanor M. Robinson, handles these matters with professional pride.

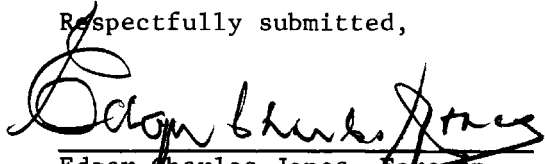
Our thanks to Mr. W. Rufus Holzbaur, Bailiff, who contributes much to the smooth running of our Jury quarters.

Legal guidance in our endeavors was most ably provided by Richard E. Gerstein, State Attorney, and his excellent staff. We have been greatly impressed by his initiative, ability, and the manner in which he diligently seeks out the truth. Mr. Gerstein has proven to us to be an able and vigorous prosecutor and yet a keen protector of

constitutional rights. We are well aware that the splendid cooperation which has existed between the State Attorney and all the Grand Juries could only come from a superb organization under intelligent and skillful leadership.

We appreciate the outstanding cooperation and courtesy of Assistant State Attorneys Seymour Gelber, George Eadie Orr and Roy Lee Jones. We also acknowledge with appreciation the help and assistance of Assistant State Attorneys John C. Wynn and Arthur E. Huttoe. The citizens of this county should take great pride in these knowledgeable men as well as the entire staff of the State Attorney's office.

Respectfully submitted,

  
Edgar Charles Jones, Foreman  
Dade County Grand Jury  
Fall Term 1962

Attest:   
William E. Carpenter  
Assistant Clerk

Date: May 14, 1963