

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

SPRING TERM A. D. 1962

FINAL REPORT OF THE GRAND JURY

Filed

November 13, 1962

Circuit Judge Presiding

HAROLD R. VANN

Officers and Members of the Grand Jury

RICHARD B. PLUMER, Foreman

TALTON H. EMBRY, Vice Foreman

BEN N. CRISWELL, Clerk

RUSSELL V. EASTMAN, Asst. Clerk

ELLEN MORRILL BRONSON, Treasurer

LESTER C. ALBERT

BEVERLY C. BOGGS

JOHN F. CONROY

WINIFRED M. COOK

BEVERLY WILSON CROFTON

LOIS JEANE DALEY

WILLIAM A. DANIEL

CARLTON F. FENNER

ALDEI J. FOISY

JAMES B. FORBES, JR.

ROBERT M. GIBB

JULES GILLETTE

JOSEPH I. KIMBRO

RUTH A. LONG

EDWARD W. PATTEN

ELLIS M. RAMSDELL

ADRIAN E. WATSON

HAYNIE L. WEEMS

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

TO THE HONORABLE HAROLD R. VANN, CIRCUIT JUDGE
OF THE ELEVENTH JUDICIAL CIRCUIT OF FLORIDA

The Grand Jury is an inquisitorial body charged with the duty of investigating violations of the criminal laws of this county. It is composed of citizens whose deliberations, by law, are secret. A major function of the Jury is to hear grievances of citizens concerning public officials and governmental agencies. The Grand Jury does not have authority to review decisions of a Court and in no way can be considered a judicial or appeal tribunal.

Due to the secret nature of the Grand Jury, information as to its activities is made available only through reports approved and made public by the Circuit Court.

We recognize the desire of the news media to inform the citizens, but we believe that the very purpose of the Grand Jury is such that its activities should not be the subject of speculation and surmise.

We refer specifically to a recent television broadcast which said in part:

"But the Grand Jury has agreed to review the matter on the basis of new evidence which points to possible criminal neglect on the part of the examining physicians."

This referred to a case where a manslaughter conviction had been obtained in the Criminal Court and had been affirmed by the District Court of Appeals. The Grand Jury did not agree to "review" the case.

Irresponsible reporting of Grand Jury activities by news media creates a distorted view to the public of the Grand Jury function.

* * * * *

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
GARFIELD FREEMAN	First Degree Murder	True Bill
BOOKER T. MARSHALL	Second Degree Murder	True Bill
GROVER ROBINSON	First Degree Murder	True Bill
CLARENCE THOMAS, JR.	Rape	No True Bill
HOWARD FRED SMITH	Manslaughter	True Bill
PELEGRIN S. COLON	First Degree Murder	True Bill
ANTHONY JOSEPH BOCCHINO	Rape	True Bill
IRVIN WARREN KATZ and ELIZABETH TARKET CAROSELLA	Grand Larceny	True Bill
DIANA WATZKE LIPFORD	Second Degree Murder	True Bill
JAMES ALONZO CUSTER, JR.	First Degree Murder	True Bill
RICHARD EDWIN NORMAN	First Degree Murder	True Bill
RICHARD EDWIN NORMAN	First Degree Murder	True Bill
ALTON JACKSON FALES	Rape	True Bill
MACK LASTER	Assault with Intent to Commit Rape	True Bill
PAUL MICHAEL STRATOS	Rape	True Bill
YOO KUN WHA, also known as KUN WHA YOO, also known as FRED THOMPSON	First Degree Murder	True Bill
ROSSIE LOUISE BENTLEY	First Degree Murder	True Bill
JOHNSON E. DAVIS	Grand Larceny	True Bill
THOMAS WAYNE WINBERRY	First Degree Murder	True Bill

INTERNAL FUNDS
OF
BOARD OF PUBLIC INSTRUCTION OF DADE COUNTY

The Grand Jury has indicted Irvin W. Katz and Elizabeth T. Carosella on charges of Grand Larceny. This indictment arose out of the unlawful taking of funds belonging to Miami Beach Senior High School. Mr. Katz formerly served as Principal of that school and Mrs. Carosella was employed as Treasurer.

In the process of examining the evidence in this case, the Grand Jury has made a study of the procedures used by the Dade County Board of Public Instruction in the control of internal funds. These are funds derived from athletic contests, student clubs, entertainment, contributions, and any and all activities resulting from the use of school property.

The Principal of the school has the prime responsibility and authority to administer these internal funds. However, the responsibility for the employment and/or discharge of a treasurer to keep the bookkeeping records and to handle the internal funds should rest exclusively with the Board of Public Instruction. A uniform procedure has been established as outlined in the Principal's Manual for Internal Accounting and the Secretarial Handbook for Internal Accounting. Audits of these accounts are made periodically by the Finance Department of the Board of Public Instruction.

In the present situation, there was wholesale violation of the standards of operation as established by the accounting manuals.

Purchasing and bid procedures were ignored. Checks were pre-signed and inadequate substantiation of the checks was provided. Funds were not properly deposited in the bank and charges were not made to the proper school account. There was a failure to use

official receipt books, and funds in student club accounts were juggled improperly to cover shortages.

These were administrative violations and subject to the action of the Board of Public Instruction. The Grand Larceny charges against defendants Katz and Carosella involved the taking of several thousand dollars which money was not used for school purposes, but for the personal and private benefit of the defendant Katz.

It has been suggested that all internal funds collected in each school be administered centrally with all funds turned into one depository and disbursed from the central agency. This, in our opinion, would not sufficiently eliminate the opportunity for the commission of similar unlawful acts and would create cumbersome machinery for the handling of internal funds.

In the audit carried out by the Finance Department, it was stated:

".....There has been a serious lack of proper supervision and guidance in business affairs. The responsibility for this phase of the school's activities has not, in our opinion, been carried out to even minimum essentials."

Twenty-one administrative recommendations were offered by the Finance Department which the school authorities plan to implement.

A survey made by an outside accounting firm also recommended a series of tightening up procedures to be enforced in internal auditing. Both reports reflected the need for enlarging the staff of auditors employed by the Board of Public Instruction so that more frequent and intensive audits might be made of the manner in which school funds are handled.

The checks and balances utilized in this situation were not adequate to uncover promptly this misuse of funds. The Board of Public Instruction, however, has acted promptly in an effort to rectify the situation. This is but an isolated incident that has taken place in an extensive school system numbering thousands of teachers and tens of thousands of students. The Grand Jury is confident that the example set by our educators for their students is of the highest quality and beyond reproach. Our children learn by example and we believe that the high standard established by the Dade County teaching profession is untarnished by this deplorable event.

We urge the immediate adoption of the twenty-one administrative recommendations offered by the Finance Department. In addition, the "tightening-up" procedure recommended by the outside accounting firm should be forthwith adopted.

ELECTION LAW

In July, 1962, the County Commission passed an ordinance establishing standards to govern the erection of billboards in Dade County.

Subsequent to this action, several elected officials made public statements to the effect that county commissioners running for election had received campaign contributions from billboard companies in violation of the State Election Law.

The evidence does not show that any member of the County Commission was improperly or illegally influenced to vote in behalf of the billboard industry.

Testimony was produced and confirmed by the various Campaign Treasurers' Reports to the Secretary of State that several county commissioners and billboard officials failed to comply fully with the State of Florida Election Code. However, the Grand Jury concluded that the requisite intent necessary for an indictment was not present.

The present Election Code is so constructed that technical compliance with all its requirements is a virtual impossibility. The Code was promulgated in 1951 and has had a salutary effect on the conduct of elections. It does, however, contain restrictions which impose hardship, as well as loopholes, which permit excesses.

The Code, Florida Statute 99.161 (6), requires payment for expenses incurred to be made in advance by a special voucher. Yet, there are expenses such as utility bills and other matters which cannot be determined in advance.

Where a candidate fails to make payment of an amount due, through neglect or oversight, he can be charged with a criminal violation of the law only if it is shown to have been done knowingly and willfully.

The Florida Supreme Court has held:

"Willful means knowingly and of a stubborn purpose, with evil intent, without justifiable excuse."

These guide lines make indictment in the instant situation unwarranted.

The Statute requires all funds received in furtherance of the candidacy to be deposited in 24 hours. Coupled with the provision of the law which voids the nomination of a candidate for violations committed by his treasurer, it places the candidate in a completely vulnerable position.

It is a well-known fact that the maximum allowable contribution of \$1,000 is a figure which finds virtually no observance in major political races.

The prohibition against corporations as such and officers of some corporations contributing to campaigns is easily and frequently avoided by various subterfuges.

The laws are specific as to the responsibility of candidates and their campaign supporters but clarification is needed in regard to those who sell and supply merchandise to candidates. By placing responsibility on the supplier to conform with the necessary procedures, we might insure better compliance with the election laws.

The Grand Jury has no pat solution, and we do not wish to oversimplify the problem by merely assessing blame against candidates for public office. Witnesses before the Grand Jury included a former Governor of Florida and the present Attorney General. Their opinion, as well as ours, leads to the conclusion that the Election Code has produced effective results. It was badly needed legislation at the time of its passage, but it needs overhauling. We would recommend that the 1963 Legislature study the election law needs in light of present-day political campaigning.

YOUTH HALL AND CHILDREN'S HOME

The care and custody of youthful offenders and dependent children is now and has been a constant concern to Dade County Grand Juries and the officials having jurisdiction in that area. The number of young people committing offenses has been on the increase throughout the United States, and in this regard, Dade County is no exception. Unfortunately, what is planned today is frequently obsolete by the time of implementation.

This Grand Jury heard from various experts in the juvenile field and made a physical inspection of the facilities designed to handle juvenile offenders and dependent children in this community. This investigation revealed that present facilities are inadequate to accomplish their intended purpose inasmuch as they are not being used to the best advantage.

Youth Hall was constructed in 1950 and was designed to house one-half the juveniles occupying it today. Previous Grand Juries have pointed out that this overcrowding violates various building codes in Dade County and is inexcusable. The principal reason for the overcrowded condition at Youth Hall is that juveniles are detained pending transportation to other facilities, such as the Children's Home at Kendall, Florida, and the State correctional schools. A review of the roster on any given day will find children being detained at Youth Hall for transfer to the Florida School for Boys for periods of 50 days, 22 days, 19 days, 12 days, and 41 days. This situation is not fair to the taxpayers of Dade County and should be remedied by the State. It is also unfair to the juveniles involved. The unwholesome action of housing juvenile girls in the County Jail should not be repeated.

Youth Hall was not designed to house children for prolonged periods, nor was it originally planned to provide recreation for the children or school programs. The Grand Jury believes it would be impracticable to augment present Youth Hall facilities. To avoid overcrowding at Youth Hall, any substantial additional facilities to be constructed should be built at the Children's Home at Kendall.

The lack of space in the Juvenile Court Building can be resolved, in part, by using the courtroom facilities in the new Justice Building. This building has adequate courtroom space to house the two Juvenile Court Judges, giving each Judge a chamber, an office for a secretary, plus a courtroom for each Judge. With this change, the present courtroom and chambers at Youth Hall could be converted to the primary needs of delinquent and dependent children. This would also aid in relieving the Juvenile Court Judges of their responsibility for the administration of Youth Hall and enable the Court to devote full time and energy to the judicial determination of cases.

The administration of Youth Hall facilities would best be served in the hands of the Chief Probation Officer. His status should be changed by law to give him this additional authority. Presently, the administration of these facilities is in the hands of the Visiting Committee, a group of private individuals who have been appointed to this position. Dade County can be proud of the efforts made by these private citizens. However, the Grand Jury believes that the responsibility for the administration of these facilities should be placed under the authority of the County Manager with the Visiting Committee retained as an advisory body.

Dade County has taken a tremendous stride forward with the new construction at the Children's Home at Kendall. These facilities could serve as a model for the entire nation. Their only shortcoming

is lack of number, rather than lack of quality. Mr. Robert L. Taro, Superintendent, and his staff are to be commended for their administration of this facility. It would be the recommendation of the Grand Jury that Dade County recognize these efforts by adjusting the salary scale commensurate with the responsibility and performance of those involved.

In addition, we urge that the Foster Home Care Program be expanded to take care of all dependent children who are suitable for care in such a program. The other dependent children, who must be institutionalized, should be completely separate from the delinquent children. This program is presently under consideration and we recommend adoption by the county as quickly as possible.

RECOMMENDATIONS

The Grand Jury recommends:

- (1) The Juvenile Judges use the courtroom facilities in the new Justice Building.
- (2) The responsibility for the administration of Youth Hall be given to the Chief Probation Officer under the direction of the County Manager.
- (3) The facilities at the Kendall Children's Home be enlarged to provide sufficient space for the needs of this community. Salary scales should be adjusted upward to reflect the responsibilities of those involved.
- (4) The Visiting Committee be continued as an Advisory Board.
- (5) The Foster Home Care Program for dependent children be expanded.
- (6) The Dade delegation to the Florida Legislature seek legislation which will provide for the construction of a suitable facility in South Florida to fill the needs of the area; or, that correctional institutions presently operated by the State of Florida be increased in size and an adequate budget made available.

CONTROL OF CHARITABLE SOLICITATIONS

The previous Grand Jury made recommendations to the Board of County Commissioners relative to enacting a county-wide ordinance controlling charitable solicitations. That Jury considered the State laws to be inadequate. The diversity of municipal regulation creates an unfair burden on the activities of legitimate agencies. Many charitable organizations, as well as the City of Miami Commission, also sought legislation which would prevent unscrupulous persons from obtaining funds under the pretense that they are to be used for charitable purposes.

The County Commission in acting on these proposals referred the matter to the County Attorney for his review of the legal aspects involved. The County Attorney concluded:

"The proposed county ordinance, if enacted, undoubtedly would be construed as conflicting with such general state law, and the provisions of the county ordinance would not be enforceable against any organization complying only with the requirements of the general state law."

The Grand Jury recommends that more stringent enforcement of the existing State law be imposed. The Jury further recommends that the Legislature consider revisions of the State law to create proper safeguards against the unscrupulous fund raiser.

GUN REGISTRATION LAW

The Grand Jury issued an Interim Report recommending stricter controls over the purchase of concealable firearms. The Jury, while supporting a state gun registration law, recognizes the hostility to such legislation on a state level. Despite the opposition existing in the State Legislature, we suggest that the members of the Dade County legislative delegation again introduce such legislation in the hope that ultimately the problem will receive the recognition it warrants.

There exists a Metropolitan ordinance controlling the sale of guns and we urge its strict enforcement by police agencies. Additional amendments have been proposed by the County Manager's office requiring special licenses which would be revokable upon failure of the dealer to comply as well as placing upon the dealer the responsibility of delivering the records of gun purchases to the Department of Public Safety. We endorse these amendments. They will further enable tighter enforcement by the Department of Public Safety.

TRAFFIC SAFETY

The traffic accident control program in Dade County requires constantly increasing effort on the part of citizens and governmental agencies.

The 1961 Annual Traffic Inventory analysis compiled for Dade County by the National Safety Council highlights this need. Our automobile accident rate continues to be considerably higher than the national average for communities of our size. The report pointed up the lack of uniformity among the many police agencies in regard to record-keeping, reporting of statistics, and the use of enforcement techniques. It was noted that insufficient personnel are assigned to traffic control.

A recommendation was made that the Dade County Citizens Safety Council be fully reactivated. The Dade County Grand Jury joins in this endorsement. This Safety Council is a non partisan, non profit public service organization devoted to coordinating traffic safety programs and providing continuity to these aims. The Council is supported by voluntary financial contributions of private citizens. We urge the necessary public and private support for this organization.

Overall, the Grand Jury urges the Metro Commission to interest itself in a determined program to make Dade County exemplary in matters of highway safety and progress through constantly improved engineering, enforcement, and education.

SANITARY REGULATIONS

The observance of sanitary regulations by restaurants and other food purveyors is of substantial importance to the health of Dade Countians and the hundreds of thousands of visitors to this area. The Dade County Department of Public Health is charged with this responsibility. Their inspectors have county-wide jurisdiction and operate under both the State law and municipal ordinances. There presently exists no county-wide Metropolitan Sanitary Code which would make available for enforcement purposes a common standard required of all food establishments in Dade County. Prosecution under such a law would lie in the Metropolitan Court rather than in the various municipal courts or the Criminal Court of Record where state violations are prosecuted.

As with many other problems, our community suffers where, despite the numerical quantity of laws on the books, we find that they are inadequate to cope with the concerns of a growing Metropolitan area.

A Sanitary Code which would apply uniformly to the entire county would upgrade our health controls. It would likewise be enforced in one court, the Metropolitan Court, where uniform enforcement would create a consistent standard for food establishments throughout the county.

Another problem in a similar area is the State statute relating to sanitary nuisance, particularly Florida Statute 386-10, which limits enforcement in unincorporated areas. The adoption of a Metropolitan ordinance would clarify the authority of the health inspectors and permit proper enforcement.

RECOMMENDATIONS

The Dade County Grand Jury recommends more frequent inspections of all food establishments, as well as a check on the health cards of employees of these establishments. The Jury further recommends the adoption of a uniform county-wide ordinance setting up adequate inspections and controls. The present State law could be used as a guide to accomplish this purpose.

NARCOTICS

The Grand Jury heard testimony concerning the narcotics traffic in Dade County. We were specifically interested in whether a narcotics problem exists in our high schools. We are pleased to report that it does not. Nor does there appear to be a great deal of organized narcotics traffic in the Greater Miami area.

While the situation is under control, there is a greater use of such drugs, among adults, resulting from the increase in Cuban population. The amount of cocaine seized in Dade County in 1962 is larger than the total amount seized previously in the history of this area. Law enforcement officers are of the opinion that Castro agents are attempting to peddle narcotics to refugees in order to obtain American dollars and to embarrass the anti-Castro Cubans residing in Dade County.

The obtaining of barbiturates, such as sleeping pills, calls for more rigid requirements. Sleeping pills have become an accepted part of the family medicine cabinet. As such, they are readily available for improper use by adults and are also readily accessible to youngsters who use them as "goof balls" for partying purposes.

In order to obtain the recognized narcotic drugs, a doctor's prescription is required and a register of all users is maintained by the drug store. In regard to sleeping pills and other barbiturates, only a prescription is necessary with no requirement for a register of users.

Paregoric is another household remedy which, while possessing certain medicinal values, does contain a percentage of opium and is used by addicts for that purpose. Paregoric is presently obtainable without a prescription.

It would be of considerable benefit to the community and law enforcement agencies for legislation to be passed by the State Legislature which would require the keeping of adequate records of barbiturate users and the further requirement that paregoric be issued only by a doctor's prescription. This we recommend.

GIFT POLICY

Our investigation reveals considerable misunderstanding among public employees and law enforcement officers concerning acceptance of gifts. This is especially true in the City of Miami Police Department.

The Grand Jury recommends that the county and each municipality re-examine and clarify its policy in this regard.

ACKNOWLEDGMENTS

We conclude this report with a deep and sincere expression of thanks to the Honorable Harold R. Vann, Circuit Judge. During the term of this Grand Jury, his advice and counsel have been of immeasurable assistance. From the day we were impaneled to the final hour of our session, we have been greatly impressed by the dignity and efficiency of Judge Vann's Court.

The Honorable E. B. Leatherman, Clerk of the Circuit Court, has been praised by other Grand Juries through the years. His fine service to us has been no exception.

Every Grand Jury depends in great measure on an efficient system of records, correspondence and reports. Our Administrative Assistant, Eleanor M. Robinson, handles these matters with utmost efficiency.

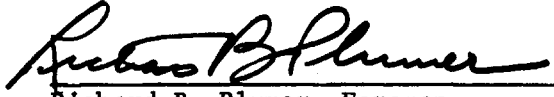
Our thanks also to Mr. W. Rufus Holzbaur, Bailiff, who contributes much to the smooth running of our Jury quarters.

Finally, this Grand Jury wishes to express its gratitude for the privilege of working with the Honorable Richard E. Gerstein, State Attorney. We have been greatly impressed by his initiative, ability, and the manner in which he diligently seeks out the truth. Mr. Gerstein, who has met with us at every session, is a vigorous prosecutor, and yet a keen protector of the constitutional rights of man. He is wholly dedicated to justice and to the service of Dade County.

We appreciate also the outstanding cooperation and courtesy of Assistant State Attorneys John C. Wynn, Seymour Gelber, George

E. Orr, Roy Lee Jones, and Arthur Huttoe. The citizens of this county should take great pride in these knowledgeable men as well as in the entire staff of the State Attorney's office.

Respectfully submitted,



Richard B. Plumer, Foreman
Dade County Grand Jury
Spring Term 1962

Attest: Ben N. Criswell
Ben N. Criswell, Clerk

Date: November 13, 1962