

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

SPRING TERM A. D. 1963

FINAL REPORT OF THE GRAND JURY

Filed

November 12, 1963

Circuit Judge Presiding

JOE EATON

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CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
DENNIS VICTOR PALMER	Rape	No True Bill
DIXON WILDER HALL, JR.	First Degree Murder	True Bill
BILLY FALLIS	Rape	True Bill
FREDDIE LEE DUNCAN	Rape - Statutory	True Bill
GEORGE DIXON	First Degree Murder	True Bill
GEORGE W. MIMS	Accessory After the Fact to First Degree Murder	True Bill
ELI WILLIAMS	First Degree Murder	True Bill
JAMES CLYDE KISH, also known as JIMMY CLYDE KISH	First Degree Murder	No True Bill
ARTHUR J. BASEHART	First Degree Murder	True Bill
BOAST LASTER, JR. and REID HENRY BRYANT	Rape	True Bill
JAMES RUBY THOMAS, also known as JAMES R. THOMAS	Rape	True Bill
FRANK RACO, also known as FRANK MICHAEL RACCO	Breaking & Entering Grand Larceny	True Bill (2 Counts)
FRANK RACO, also known as FRANK MICHAEL RACCO	Receiving and Concealing Stolen Property	True Bill
EUGENE TANNENBAUM	Receiving and Concealing Stolen Property	True Bill
JETHRO KENTY	First Degree Murder	True Bill
DONALD EUGENE MILLER	First Degree Murder	True Bill
DONALD EUGENE MILLER	First Degree Murder	True Bill
HOMER LEE BERRY	Second Degree Murder	True Bill
ALBERT JAMES SOREY, BEN CAULEY, JR., EDDIE MILES, and DONALD LEE SOREY	Rape	True Bill
WAYMOND WALKER, also known as PEE WEE	First Degree Murder	True Bill
ORLANDO F. FORTIN, ANGEL MANUEL RODRIGUEZ, also known as ANGELO and AURELIO NAVARRO, also known as TONY	First Degree Murder	True Bill
LUCIUS McARTHUR GARY	First Degree Murder	True Bill

INVESTIGATION OF ALLEGED BRIBE ATTEMPT OF A DADE COUNTY COMMISSIONER

The investigation of the alleged bribe offer made to County Commissioner Robert Brake is the most important work done by this Grand Jury. The significance of possible tax assessing inequities or questionable planning for the Dodge Island Seaport all seem of comparatively little import if those entrusted to make decisions for us are not acting honestly in the performance of their duties. Government in order to operate properly must enjoy the confidence of the citizens. The public may, at times, tolerate inability, inefficiency, or even ineptness in a public official, but they will not condone dishonesty.

The Jury has made a thorough study of this charge in view of the fact that not only does this strike at the very base of our governmental system, but because we recognize that an accused can and will suffer irreparable harm by accusation or even suspicion.

From the testimony produced before us we determined the following sequence of events. On November 30, 1962, Commissioner Robert Brake was approached by a fellow County Commissioner and informed that should he vote for a then pending project he would receive a campaign contribution in the sum of \$10,000. This conversation took place in the Commission offices. No one else was present or within hearing. Brake consulted with both his law associate, Coral Gables Mayor Joseph Murphy, and County Commissioner Winston Wynne as to what course of action to take. Several days elapsed and then they discussed the incident with Miami Herald Editor Don Shoemaker who promptly advised Brake to report the charge to the State Attorney. Ten days had elapsed between the bribe offer and the reporting of

the incident to the proper legal authority. Brake testified before the then sitting Grand Jury. He was instructed to report any further overtures to the State Attorney and the Grand Jury in the hope that adequate corroborative evidence and witnesses would be obtained against the briber. Since the project involved had not been abandoned by the Commission, the investigation remained active and Commissioner Brake agreed to cooperate.

For security purposes, the State Attorney instructed Brake, Murphy, Wynne and Shoemaker not to divulge their knowledge of this incident, which course they agreed to follow. Three months ago, the Managing Editor of the Miami News, C. Edward Pierce, informed the State Attorney that he was aware of the facts surrounding the alleged bribe offer. The State Attorney advised him that the investigation was continuing, there was still hope of securing additional evidence against the offender, and premature disclosure would forever defeat the investigation. Pierce agreed not to print the story. On October 4th, a reporter for a Coral Gables newspaper, contacted the State Attorney with the same information and he also agreed not to damage the investigation inasmuch as it was continuing. On October 16th the story was printed in the Coral Gables newspaper. This publicity, of course, caused the investigation to be terminated.

We heard testimony of all the members of the County Commission as well as representatives of the engineering firm involved in the planning of the project. The newspapermen having previous knowledge of the incident also appeared before the Jury.

We have several conclusions to offer.

1. Commissioner Brake's allegations, sworn to under oath, were denied under oath by the Commissioner accused by Brake. There is no

corroborative evidence to substantiate the charge and therefore no criminal indictment will issue. In factual situations such as this, fair play requires more than one man's word against another to cause the arrest and trial of a citizen.

2. We commend Commissioner Brake for reporting this to the State Attorney. It would have been a simple thing for him to have ignored the matter. We consider it the firm duty of a public official to report every bribe offer or what amounts to a bribe to either the police, the State Attorney or the Grand Jury. We cannot, however, overlook the ten day delay in bringing the information to the attention of the State Attorney for his evaluation. There was no need for consultation with the several people involved during that period of time. As a County Commissioner and a practicing attorney, Brake should have been aware of the significance of the offer made to him and he should have reported this information immediately to a law enforcement agency.

3. As to the press, both the Miami Herald and the Miami News, by withholding the printing of the story so that the investigation might continue, displayed a fine sense of civic responsibility. The Coral Gables paper, having the same information, preferred to print the story, notwithstanding the importance of the investigation. We question their judgment in this matter. We recognize that limitations on the press must be self-imposed. The test of civic responsibility for a newspaper should be the discipline with which they control their own ambition and enthusiasm.

The Grand Jury cannot resolve this situation for lack of corroborative evidence. We are hopeful that the events which have transpired will establish a corrective course of conduct which can be followed by public officials, the press and citizens, should there be a reoccurrence.

DODGE ISLAND SEAPORT

At the request of the County Manager and the County Commission, the Grand Jury examined the operation and development of the Dodge Island Seaport.

Lack of time prevented our going into this matter as extensively as we would have desired, but our investigation was sufficient to warrant certain conclusions of fact and recommendations.

The City of Miami, Dade County, the U. S. Corps of Engineers and several engineering firms have since 1952 been working on actual plans for the Dodge Island Seaport. During that period of time, law suits and changes in government have slowed the progress of this project. Presently, while construction proceeds, there has been expressed considerable dissatisfaction by many citizens as to the facilities planned for the port and the ability of those designated to carry out the plans. We have heard from some witnesses who have supported these complaints and others taking a contrary view.

The areas of complaint included the size of the port, the function of the port, the passenger facilities, cargo transportation, depth of the port, as well as other even more technical areas such as the components of the refrigeration plant and intricacies of the turning basins. The Grand Jury is not equipped, nor is this a body whose function it is, to analyze the efficiency of plans for the construction of a seaport. The Spring Term 1958 Grand Jury undertook an investigation as to "any irregularity, wrongdoing, or criminal violation in connection with the City of Miami constructing a port at Dodge Island." Their investigation disclosed no improper act. Similarly, we have heard no evidence which would warrant

indictment or justify censure within the scope of our jurisdiction.

As a group of laymen, we offer no pretense as to evaluating the technical aspects of the Dodge Island Seaport. We are not convinced, however, that the various stages of its development have had the management that would be expected were this a project of private industry. Since its inception, the goals and projections have rarely gone beyond today. Each construction delay results in an updating of plans, none of which appear to fully contemplate the extensive changes which have taken place in South Florida in the last ten years and will further change in the next twenty years. Some officials appear more concerned with glossing over complaints with an "everything is all right" attitude rather than admitting whatever deficiencies exist and moving ahead to rectify, while others seem to relish the role of voicing constant criticism. At the present time, the public is confused as to what the Dodge Island Seaport really is, and what it will be. Those entrusted with this responsibility, lawmakers and administrators alike, should assume the duty of keeping the public accurately informed.

The County Commission and the County Manager can consult with whatever experts are necessary to determine clearly and concisely the picture of the Dodge Island Seaport. If what we are planning is inadequate, there must be changes made while there is still time. If miscalculations have been made in the past, we would rather know it now than at a future date when the cost of correction is prohibitive.

There is a lack of community leadership in this project. This is a void best filled by spirited citizens and knowledgeable officials rather than by the anonymous and secretive operation of a Grand Jury.

TAX ASSESSMENT PROGRAM

The preceding Grand Jury investigated the efficiency of our tax assessment program in regard to personal property. We have been advised by the County Manager that many of the deficiencies brought to light as a result of that investigation are presently being rectified.

This Grand Jury looked into certain aspects of the tax assessment program relating to real property. Particularly, we refer to the 1962 assessment of the Morton Towers Apartments in Miami Beach and the Harbour House Apartments in Bal Harbour. We found no criminal wrongdoing in either of those instances. We do question some of the administrative procedures used to determine the real property taxes.

Presently the County Assessor's tax roll and the majority of municipal tax rolls are computed independently of each other. Each of the assessors makes an evaluation upon which a tax is applied, and each applies his own formula which sets the actual tax to be paid. Closer coordination between the County Tax Assessor and City Assessors should be effected. The citizen may then appeal the decision of the assessor to the County Commission or the municipal governing body. There appear to be no standards by which the Tax Assessor's recommendations are rejected by these bodies. The citizen travels a hazardous route in the final determination of his tax payment. Hasty decisions are often made by officials who follow no consistent pattern in their evaluations.

It is our belief that a greater amount of information should be made available to those assessing the value of property. Where a reduction is claimed, a more comprehensive audit must be made of the books and records of the claimant and all statements provided by them should be sworn to.

As to the present Florida laws on this subject, we find they add little light. For example, Florida Statute 193.11, Section (4), reads in part:

"All taxable lands upon which active construction of improvements is in progress and upon which such improvements are not substantially completed on January 1st of any year should be assessed for such year as unimproved lands"

The purpose of this legislation is to prevent unfair taxation on a building which is not yet productive to the owner. The key phrase, "substantially completed" is interpreted in many ways. In one instance the County Assessor considered a building to be substantially completed but was overruled by the County Commission, while the municipality involved considered it to be subject to taxation and supported the recommendation of its Tax Assessor. We do not quarrel with the opinion of the County Commission in this matter because we are convinced that any group of men could differ in a situation where there are no obvious guide lines or standards to follow. And if guide lines do exist, they do not appear to be observed more than in a casual manner.

The tax assessment problem is a serious one and the solution is not of an obvious nature. What laws we have are complex and susceptible to many interpretations. Our Tax Assessors' offices are not physically equipped to fully investigate valuations nor to conduct extensive audits. The County Commission and city governing agencies, made up of persons not necessarily qualified to evaluate property, frequently act on inadequate evidence and often with untimely haste.

This is a problem not new or unique to our area. We recommend that constant effort be made to upgrade our Assessor departments and that legislation be enacted creating proper standards upon which assessments may be made. We recommend that the phrase "substantially complete", which is subject to wide variation in its interpretation, be stricken from the law and a more specific standard be substituted. We also recommend that a stenographic reporter record the Minutes of all Boards of Equalization meetings.

Taxpayers are entitled to anticipate with some degree of certainty the manner in which they will be treated by government. Undue tax excesses imposed on citizens are as harmful as unnecessary reductions given a few.

OPA LOCKA RECALL PETITIONS

A complaint was made to the Grand Jury concerning alleged improper pressures exerted by public officials in regard to the signing of a recall petition in the City of Opa Locka. It was charged that certain citizens who had signed the petition were visited by an Opa Locka policeman for the purpose of intimidating them because they had signed the petition. The intent of the questioning was to determine the legal residence of the signers. Our investigation showed that the action of the city officials was proper. We do believe, however, that the information desired could have been obtained without the use of an officer of the law. The mere presence of an officer interrogating citizens lends the appearance of a coercive force.

The right to sign recall petitions is one of the sacred tenets upon which our country was founded. Even the slightest indication of government interference is sufficient to create an imbalance between a citizen's rights and governmental control. Public officials must make every effort to avoid the appearance of such action in so sensitive an area.

CITY OF MIAMI POLICE INVESTIGATIVE FUNDS
TRAVEL ALLOWANCES

The City of Miami Police Department has budgeted \$850.00 for its travel allowance for investigation of criminal cases. Based on testimony of police officers, the Grand Jury believes this amount is wholly inadequate to properly investigate the numerous cases arising within the City of Miami but requiring out of city and out of state investigation.

At the present time, the City of Miami relies on other local agencies, such as the Sheriff's Office, the State Attorney's Office and police departments in other cities to aid in their investigations. Travel expenses are sometimes paid by other agencies, and in some instances money is made available for travel by a transfer of budget funds from another City account. This results in a feeling among police officers that travel money is not available to them to make the investigations necessary in order to properly present criminal cases in Court.

While this Jury does not advocate fiscal irresponsibility, we do believe police officers charged with the duty to protect the public should not be hampered by administrative roadblocks. Insufficient appropriations, the transfer of money from one budgeted item to another and required approval all the way up to the City Manager's office for the expenditure are evidence of misplaced economy.

At present, the figure of \$850.00 is based upon the request and usage by police officers in previous years. This is an artificially low figure and does not represent need, but rather expresses the police officers reluctant acceptance of the fact that higher officials do not encourage out of town investigative travel.

The Grand Jury is confident that an increased budget for this activity can be properly supervised so that it is used reasonably and efficiently.

YOUTH HALL AND THE CHILDREN'S HOME AT KENDALL

As part of this Grand Jury's regular duties, visitations were made by the Jury to the Youth Hall and the Children's Home at Kendall.

As our predecessors have noted, the Children's Home at Kendall might well serve as a model for the rest of the nation. At the present time a central cafeteria and kitchen is under construction and should be completed in February of 1964. This central cafeteria will result in a considerable saving of money. We would suggest to the news media that this fine institution receive the public attention that is more often given to portray the inadequacies of government operation. Taxpayers should have the opportunity to be aware of institutions where tax monies harvest the results of which we all can be proud. As other Juries have observed, an outstanding job is being done by Robert L. Taro, Superintendent of the Children's Home at Kendall.

Again, as our predecessors have noted, the Youth Hall remains in an overcrowded condition. Numerous community service groups are helping by furnishing books, clothing, recreational equipment in general, and these groups should be commended for their efforts. However, this does not alleviate the exploding population at Youth Hall. There is desperate need to change the State law to require State institutions to promptly accept children who have been committed to those institutions. Were this change enacted, the major cause of overcrowding at Youth Hall would be eliminated.

RECOMMENDATIONS

It is recommended:

1. That the pay scale for all persons working with juveniles be upgraded for the purpose of obtaining and keeping qualified personnel.

2. That the State law be changed to require State institutions to promptly accept committed juveniles in order to relieve overcrowding at Youth Hall and for the State to accept its responsibility.
3. That additional dormitory facilities be built to accommodate the increased juvenile population.

CONFLICT OF INTEREST IN CITY OF HOMESTEAD

This Grand Jury, in an Interim Report, on July 16 of this year, found no unlawful act on the part of Homestead Mayor Richard Conley or Councilman Fred Rhodes in their business dealings with the City. However, the Jury did find that the law was limited to certain narrow phases of contractual relationship and was silent on many broad aspects of association between public officials and private business and self interest. It was our recommendation that the Interim Study Committee of the Florida Legislature diligently pursue this subject with the object of enacting legislation which will be more comprehensive, clearer, and more easily enforceable.

To emphasize its importance to each community, we repeat this recommendation in the Final Report.

We note the activity of the County and the City of Miami in strengthening their conflict of interest laws. We commend them for their efforts and urge all municipalities to consider action in the direction of tighter and stricter conflict laws. While this may deprive the community of some capable citizens, who cannot by virtue of a conflict serve as either an elected or appointed official, it will establish a sound, solid base upon which officials will know with certainty the role they must and can assume in government.

THEFT OF I.B.M. EQUIPMENT

On October 1, 1963, the Grand Jury indicted Frank Raco on the charges of Breaking and Entering, Grand Larceny and Receiving and Concealing Stolen Property, and Eugene Tannenbaum on the charges of Receiving and Concealing Stolen Property. These indictments involved certain stolen I.B.M. equipment.

We recommend to The Florida Bar that an investigation be conducted concerning the conduct of the several members of The Florida Bar involved in this matter.

ACKNOWLEDGMENTS

It is with great appreciation that we acknowledge the fine cooperation and support given to this Grand Jury by Judge Joe Eaton. With his advice and counsel, a difficult job was greatly simplified.

The Honorable E. B. Leatherman, Clerk of the Circuit Court, and his staff have been most cooperative in their assistance to the Grand Jury.

It is hard to evaluate the wonderful cooperation and help given to us by Eleanor M. Robinson, our Administrative Assistant. We could not function without her efficient, willing and helpful assistance.

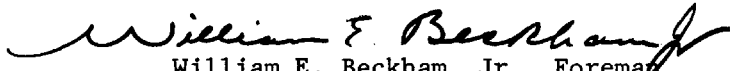
Our many thanks to Mr. W. Rufus Holzbaur, Bailiff, who contributes much to the smooth running of the Jury quarters.


Last, but not least, we wish to commend our very able State Attorney, Richard E. Gerstein, and his very fine staff consisting of Seymour Gelber, George Eadie Orr, Roy Lee Jones and Arthur E. Huttoe who have assisted this Jury. Needless to say, the Grand Jury could not function smoothly without their advice and counsel. The citizens of this county can consider themselves fortunate in having men of this calibre as guardians of the public's constitutional rights. We recognize their diligent and efficient prosecution of the violators of the law. Many of the present Jurors knew little of the inner workings of the State Attorney's office, and we are certain that everyone is greatly impressed with the efficiency and skillful leadership this branch of our County Government provides.

We are the twelfth consecutive Grand Jury which has had the privilege of working with State Attorney Gerstein, and as in the past,

each Grand Jury has been most complimentary in their recognition of this association. We wish to add our sincere commendation to that of the other Grand Juries.

Respectfully submitted,


William E. Beckham, Jr., Foreman
Dade County Grand Jury
Spring Term 1963

Attest: 
Scott H. Braznell, Jr.
Clerk

Date: November 12, 1963