

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

SPRING TERM A. D. 1964

FINAL REPORT OF THE GRAND JURY

Filed

NOVEMBER 10, 1964

Circuit Judge Presiding

FRANCIS J. CHRISTIE

Officers and Members of the Grand Jury

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A. B. MUNRO

SAMUEL A. RIVKIND

MAE G. ROGERS

MARGARET THOMAS

HENRY D. TUCKER

FRANKLIN A. WEBSTER

\*\*\*\*\*

State Attorney

RICHARD E. GERSTEIN

Assistant State Attorneys

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

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CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
PHILLIP JOHN DONOVAN	First Degree Murder	True Bill
JACK GULLETTE	Rape	True Bill
BENNIE STEVE ROLLE, LEROY WALKER and KERRY FRANCOIS	First Degree Murder	True Bill
ALBERT BROWN	Second Degree Murder	True Bill
PABLO H. LaSALLE	Second Degree Murder	True Bill
GUY SIM MANNING and JERRY NORMAN HAIMOWITZ, also known as JERRY HERMAN	Rape	True Bill
JOHNNIE MASON	First Degree Murder	True Bill
RUFUS STANCLE, also known as JIGGS	First Degree Murder	True Bill
ARTURO HERNANDEZ	Second Degree Murder	True Bill
JAMES EDWARD ROBERTS	Rape	True Bill
ROBERT GEORGE RUSSELL	Rape	No True Bill
LLOYD A. CUFF	Second Degree Murder	True Bill
RICHARD CHARLES WORTHINGTON	First Degree Murder	True Bill
RICHARD CHARLES WORTHINGTON	First Degree Murder	True Bill
JOEL D. GEBHARDT	First Degree Murder	No True Bill
JOEL D. GEBHARDT	First Degree Murder	No True Bill
THOMAS RAY CARBONE	Rape	No True Bill
SAMUEL HENRY COLEBROOK	Rape	True Bill
OLIVER LEE JOHNSON	First Degree Murder	True Bill

## ALLEGATIONS OF POLICE BRUTALITY

Do police extract confessions from prisoners by beating it out of them? Are policemen using more force than necessary in making arrests? These allegations have received considerable attention in the news media both locally and on a national scale. We examined local criminal defense lawyers, as well as law enforcement chiefs, for their views on the subject. In addition, we investigated specific charges of police brutality in the making of arrests and obtaining confessions.

Although there was agreement on both sides that police authority is sometimes misused, there was a considerable divergence as to the extent and purpose.

The police contend claims of mistreatment are often fabricated and used by criminals as weapons to convince juries that confessions previously given were not voluntarily made. Further, they suggest that in circumstances where civil rights riots have occurred, the charges of police brutality are false cries of propagandists.

Estimates of the number of incidents vary considerably. The Sheriff's Office reports 39 complaints of police mistreatment in the past year, while the Public Defender maintains that 50% of the many thousand defendants they represent claim police abuse, and 25% of that number are well founded.

In our investigation of specific cases, we found policemen who consider their badge both a license to demand servile obedience and a privilege to take physical liberties with citizens. These cases include the traffic offender who is slow in responding to a question to the suspected felon with an extensive criminal record.

Despite the estimate of the Public Defender, we consider mistreatment by police officers to be acts of a small minority rather than representative of general police attitude or policy. With the growth of organized crime and the emphasis by the Courts in protecting the rights of the accused, we do not wish to add to the burden of law enforcement by a blanket indictment of all police personnel.

The major police departments in Dade County are aware of the problem and maintain procedures to discourage such acts. For example, the Sheriff's Office and the City of Miami Police Department require complete and immediate reports on prisoners claiming physical abuse. This includes medical examination and prompt photographs of the alleged injury. The Internal Security Squad of the departments conduct investigations of the charge and if sustained, it results in administrative disciplines. Unfortunately, proof of the allegations is difficult to obtain. It is generally the word of the complainant against several police officers with no independent corroboration. Even in the event obvious physical damage has been suffered, there rarely exists evidence to refute the police position that the force exerted was necessary to quell an overaggressive subject.

While the majority of the complaints are made against the larger police departments and their sub-stations, there are a few of Dade County's villages and towns, each with their handful of police, that concern us. There we have a picture of departments numerically undermanned, inadequate budgets, no in-training programs and generally inferior results in police operations. With this kind of police force it is almost to be anticipated that citizens coming within their jurisdiction may receive treatment unlike that provided by competent, professional law enforcers.

It is apparent from the foregoing that this is a serious problem for all concerned. Career policemen are anxious for their reputation; the public needs the highest caliber representation to combat crime and the individual citizen's rights and safety are paramount in confrontation with a police officer. A citizen with a complaint may request a departmental investigation and in addition, he may solicit the Grand Jury, the Federal Bureau of Investigation, or the State Attorney for an investigation on their part.

The weakening of the police image is in essence the impairing of our own community effort against crime. This is a loss we cannot afford. Action to restrain police excesses includes civilian control or self imposed rules by the police.

Several suggestions designed to improve the officer-citizen relationship were made to us.

1. The approach that has been used in several Metropolitan cities is the civilian review board. This is a group of appointed, representative civilians who examine charges of police brutality and submit findings and recommendations to the police commissioner and City Commission. Police officials throughout the country oppose a review board as unnecessary and as an inhibition against proper police performance. Adherents support it as a safety valve measure that will reassure the public that fair impartial hearings are provided both citizens and police officers.

2. A better trained, better educated police officer is better qualified to cope with this problem. Emphasis should be placed on intense psychological testing for police applicants in order to weed out those unfit for this type of work. Training courses should stress human relations programs to equip an officer so that he is trained to

deal with the difficulties arising from the many tensions existing in our society.

Paranetically, it might be noted that to acquire an officer of this caliber the salary and working conditions must be attractive enough to compete with commercial enterprises.

3. Example by ranking officers that brutality will not be condoned but will in fact be punished, may well set the tone for the lower rung policeman. Strict and immediate punishment for violators will be adequate notice to all personnel and will further assure the general public of the good faith of the police heads.

4. The prompt appearance before a committing magistrate of persons charged with a crime will enable any claims of police brutality to be forthwith aired.

5. The use of an independent outside stenographer to record confessions will also avail the prisoner of an opportunity to report any pressure or force exerted upon him.

We do not suggest that any or all of the above will eliminate the problem and restore to the officer the position he is entitled. He can have the community's respect but he must earn it with decent treatment for everybody. The external community pressures to reform police methods will not accomplish half the job that the police themselves can do.



### MIAMI BEACH MUNICIPAL GOLF COURSES

This investigation was commenced after a complaint by a resident of Miami Beach that employees of municipal golf courses were unlawfully receiving money for permitting certain advantages to preferred golfers. This involved playing on the three Miami Beach Municipal Golf Courses without fee or teeing off without being required to wait a regular turn. Money allegedly was surreptitiously given to a starter, as a tip, in return for these favors. An investigation by the City of Miami Beach appeared to take on partisan political overtones and we, therefore, acceded to the request to conduct an inquiry. Eighteen witnesses were heard including public officials, as well as members and employees of the golf courses, all of whom provided complete cooperation.

The Grand Jury not only considered the possibility of criminal action against a public employee under the state bribery statutes, but perhaps was more concerned with the moral issue revolving around the tacit acceptance by our citizens of the principle of payola. We deplore such tendencies and decry its acceptance. It has been suggested that golf courses throughout the country condone such practices and only the unsophisticated would object. Perhaps we are naive, but we consider it immoral and improper to adopt and wink at such shenanigans. The evidence does not justify a criminal indictment in this matter, but we are pleased with the reforms effected by the City Manager and the golf course officials.

#### RECOMMENDATIONS

The Grand Jury makes the following recommendations, many of which have already been implemented.

1. A membership list for the golf courses be kept up

to date and available to the cashier at all times to identify each player before issuing their starting number.

2. The practice of permitting certain city officials, public figures, and city employees to play without paying the normal green fee should be eliminated.
3. Any person claiming to be a convention delegate entitled to free play should be required to prove by identification and registration that he actually is a registered delegate.
4. The starters, cashiers and other employees should be weekly rotated at random among the three municipal golf courses.
5. The starter should maintain a blackboard on which to place the name and number designated for each player as he reports in so that their exact position can be readily determined by all players.
6. All greens fees ticket stubs tendered to the starter by the players, together with the sales slips retained by the clerk should be audited on a daily basis.
7. No gratuities. Signs should be prominently displayed specifying "No Gratuities to Cashiers or Starters."

### RAILWAY CROSSING ACCIDENTS

As a result of sixteen deaths arising from eleven auto accidents at railroad crossings since 1961, the Grand Jury examined the adequacy of traffic safety precautions at railway intersections. A further area of investigation was the publicly made charge by Florida East Coast Railway Vice President Ben C. McGahey that County Commissioner Thomas D. O'Malley was in a conflict of interest situation in that his law firm represented labor unions.

The prevention of grade crossing accidents involving trains and motor vehicles has long been a cause for concern among railway companies, as well as government officials and safety experts. On January 22, 1964, the Federal Interstate Commerce Commission after twenty days of hearing seventy-nine witnesses and producing over three thousand pages of transcripts issued a ninety-two page report of their findings. They recommended that in view of the inadequate police enforcement of present regulations an intensification and coordination of efforts must be made by Federal, State and local groups to improve the safety program. They suggested a federal organization be created with a direct interest in improved protection at rail-highway grade crossings.

This Grand Jury endeavored to hear the views of railway representatives, government officials and traffic safety experts. Testifying were County Manager Irving G. McNayr, City of Miami Mayor Robert King High, County Commissioner Thomas D. O'Malley, W. L. Thornton, President of the Florida East Coast Railway Company, Ben C. McGahey, Glenn E. Suddath, Executive Director of the Dade County Citizens Safety Council, T. B. Hutcheson, Chief Engineer, Seaboard Air Line Railroad Company, and Jackson G. Flowers, former Dade County Safety Director.

As one witness described it, the best preventive device is a careful automobile driver. Nonetheless, there are precautions which may well lessen the probability of such accidents. Advance warning to the auto driver is one of the keys to decreased fatalities. With the increased use of automobile air conditioning, the sound of warning bells and whistles on through trains cannot in many instances be heard by oncoming vehicles. Installation of modern automatic signalization equipment should help to overcome this problem. Contractual arrangements for installation have been made with the railways on a share basis, but County budgetary shortcomings have delayed full implementation. We encourage the County and the railways to continue their efforts to provide automatic safety warning devices. However, it would be a serious mistake to assume that the problem of accidents at grade crossings in Dade County will be solved alone by installing some type of signals at priority crossings, or indeed, at all crossings in the county. The sober truth is that no amount or kind of automatic or other signalling can replace ordinary human intelligence and caution. The greatest step forward in prevention of accidents at grade crossings would be for all highway users to recognize all railway tracks as danger signals, calling for exercise of proper caution. Any railway track may be in use at any time for the movement of locomotives and cars -- that is why the tracks are there.

In addition to automatic signalization there are other areas of concern requiring action:

1. Establishment and enforcement of building code restrictions on construction adjacent to railroads to prevent vision obstruction.

2. Adequate maintenance to prevent growth of underbrush at intersections.
3. Training program for railway personnel and educational program for drivers.
4. Study of County and City ordinances to determine adequacy of legislation controlling passage of trains through Dade County.
5. Make people aware of danger at crossings by tough police enforcement of violations.

This problem will not be resolved by attempting to assess blame on the railroads or government. It is but one facet of the transportation explosion in our country, illustrated by the 25,000 new vehicles in use in Dade County each year. A growing metropolitan area such as ours must exercise controls over trains travelling through our populous areas but the answer lies in the pooling together of railway and government action in driver education and traffic law enforcement. We recognize the priority problems of government in the spending of taxpayers money but we deplore the need for tragedy before steps are taken to institute protective programs. To insure continued attention to the many aspects of this problem, we recommend that a member of the County Manager's staff have as one of his responsibilities the continuing examination of this problem. Public clamor arising from an unfortunate death at a crossing should not be the sudden motivation for government action.

As to the suggestion that Commissioner O'Malley was influenced in his legislative vote by virtue of any legal representation of unions by his law firm, we find no evidence to substantiate such a charge.

JACKSON MEMORIAL HOSPITAL

An incident was brought to the attention of the Grand Jury concerning the manner in which emergency patients are sometimes treated at Jackson Memorial Hospital. In this instance the patient was injured, while in the course of his employment, and his employer's physician made arrangements for his admission to the hospital. A preliminary examination was made by a resident doctor upon his entering the hospital but actual treatment for his injury was to wait the arrival of his own doctor, presumably the physician who had made arrangements for his admission. In truth and fact, this doctor had not been called on for such services by the patient and had merely arranged admission. In any event, he would not have been permitted to treat the man because he was not accredited by the hospital to treat such cases.

When it became apparent after a lapse of some time that the injured man would receive no treatment, another physician was called but the hospital refused to permit treatment inasmuch as this doctor was not an authorized member of the hospital staff. At this point, the hospital considering the injured man to be now the second doctor's patient, who would have to be taken elsewhere, considered its responsibilities to be at an end and marked its records to show him as having been discharged at this time, which was approximately 3:49 P.M. However, he was not physically removed from Jackson Memorial Hospital until sometime after 6:00 P.M. During all this time, nothing was done for the patient after the initial examination.

The crux of the situation, which may well be one of many like it, appears to have been an absence of communication between doctors and other hospital personnel, on the one hand, and the patient and

those with him, on the other. Hospital doctors and other attendants acted according to rules of the institution and its standards of medical ethics. However, this was not understood by the patient and those with him. In the hospital's own interest, this breakdown of communication should be remedied.

The remedy is simple. The hospital cannot be unaware, from its extensive experience, that lay persons coming to the hospital are not in their normal mental state. They are in a world of surroundings and sights and sounds strange to them, governed by rules and procedures they do not know or understand. Additionally, the patient usually is in more or less pain, he is frightened and worried about his condition, and those with him are in a state of some agitation and apprehension. Hence, they are not in a state of mind to accept offhand and be satisfied as to the adequacy of what the hospital regards as routine and proper handling.

In this, and probably in many other cases like it, a few words of explanation and guidance from someone representing the hospital would allay disquiet and produce a better state of mind all around, for the patient and those with him. If doctors and nurses are too busy to spare the few moments this would take, then it might be done by a qualified social worker. That it should be done in all appropriate cases, the Grand Jury is convinced, and it so recommends.

STATE OF FLORIDA vs. RICHARD CHARLES WORTHINGTON

An Interim Report was issued by the Grand Jury on October 6, 1964.

We strongly reiterate the position taken in the original report which was as follows:

"The Dade County Grand Jury has determined that Circuit Judge Francis J. Christie had no part whatsoever in negotiations between the Grand Jury, the Sheriff's Department, the State Attorney's Office, and the attorney for one of the defendants in connection with the Worthington case.

The decision of the Grand Jury to use as a state's witness one of the persons implicated in the murder of Ann and Charles Worthington was arrived at with a full realization of the serious consequences involved. It was made after hearing all the witnesses. It then was evident that both persons arrested most likely would go free unless one would testify against the other. The State Attorney's Office and the Sheriff's Department concurred. The Grand Jury had the alternative of not indicting both defendants because of lack of evidence or requiring the one bearing the greater guilt to stand trial charged with murder, with the other testifying against him.

In the final analysis, this action was taken in what the Grand Jury believes to be the best interests of justice. The Grand Jury would have preferred other alternatives less distasteful, but lacking them, made the decision to bring one before the bar of justice rather than none.

The Supreme Court of Florida said in 1939:

'From the earliest times, it has been found necessary for the detection and punishment of crime, for the state to resort to the criminal themselves for testimony with which to convict their confederates in crime .... and it often leads to the punishment of guilty persons who would otherwise escape.'



JUVENILE COURT, YOUTH HALL AND CHILDREN'S HOME AT KENDALL

The Grand Jury made an inspection of the Juvenile Court, Youth Hall, and the Children's Home at Kendall.

Youth Hall, built in 1950, was at that time considered a model facility but it has not kept pace with the growth of Dade County. Originally designed for fifty-two children, it is now required to house one hundred twenty-four. In the winter, during peak load periods, officials have been obliged to place mattresses on the floor to take care of all the children.

The court quarters need additional interviewing rooms and adequate air conditioning. The one large court room available is not properly used and should be redesigned to meet the needs of this institution.

The Children's Home at Kendall is efficiently administered under the direction of Superintendent Robert L. Taro. This facility is modern and clean and reflects to the credit of all the personnel. Both dependent and delinquent children are housed in this facility. At the time of our inspection, the ratio was 60% delinquents and 40% dependents. In order to prevent overcrowding of the newer buildings, several very old structures continue to be used. These buildings date back to 1926.

It was noted that more vocational programs are needed for the rehabilitation of the delinquent children. Superintendent Taro recommended that delinquent children sent to this institution be required to stay a minimum of six months in order that a more complete rehabilitation program could be carried out.

Superintendent Taro also recommended that the dental care program be enlarged. At the present time, seventy-five percent of

the children at Kendall are in need of dental attention. This program is handled through the Public Health Department who are able to furnish only an average of eight appointments in each two week period.

#### RECOMMENDATIONS

1. A complete new facility should be acquired for the housing of dependent children at a location completely removed and separate from the Children's Home at Kendall, and another name be found for the dependent children's home.

2. The County Commission and the Juvenile Court Judges should appoint a committee to make a study and consider increasing the minimum time delinquent children are to be held at Kendall in order to effect more complete rehabilitation. Part of this study should include the need for more vocational facilities.

3. We recommend that the aforesaid committee study the Juvenile Court Building and Youth Hall with a view towards modernizing these facilities, or building completely new facilities as suggested by our predecessors.

4. Additional dental care must be provided for the children. This could be a volunteer service from the Dade County Dental Association and we call upon them for their cooperation in this public service. We recommend that all children be given dental examinations upon admittance to Youth Hall and Kendall and a follow-up every six months.

5. The Grand Jury recommends an upgrading of the pay scale for the personnel attached to the Juvenile Court, Youth Hall, and the Children's Home at Kendall. Previous Grand Juries have commended Mr. Robert L. Taro and his administration of the Children's Home at Kendall. The Spring Term 1962 Grand Jury made specific recommendations regarding salary increases. However, Mr. Taro's salary has not been increased. This should be remedied forthwith.

## TAX ASSESSOR

For several years the issuance of the Dade County real property tax roll has caused considerable consternation among citizens. The recent court decision doubling our assessment roll brought an even more increased public reaction. Little attention has heretofore been focused on the manner of determining the personal property tax. The Grand Jury investigation revealed that no appreciable standards seem to exist to determine the value of household effects. The approach seems to be one of guess work rather than accuracy. Lack of personnel prevents personal estimates and evaluation by inspectors, and as a result a percentage of the real property assessment is made as a base for the personal property tax or the previously paid personal property tax is continued on, no matter the change or addition in furnishings.

Unfortunately the cost of properly administering such a tax would probably negate the small tax return to the County. Nonetheless the present operation establishes bad practices and precedents. In the past, other Grand Juries have questioned procedural methods for collecting inventory taxes, as well as real property taxes. A proficient tax department must operate accurately and competently in each aspect of its work in order to maintain the degree of efficiency necessary for total effectiveness.

EMERGENCY CALLS TO THE SHERIFF'S DEPARTMENT

Instances have come to our attention in which the citizens of the South Dade area were calling in emergency complaints directly to Station 4 in Perrine, instead of calling the emergency number for the Complaint Desk in the main Sheriff's Office. These calls are not mechanically recorded and consequently it is impossible to refer back to them at a future time.

Inasmuch as the law enforcement people are spending considerable money on tape recorders, etc. to provide insurance of records, it appears to us that at least two telephone lines should be provided to enable these South Dade citizens to call toll free to the Complaint Desk of the Sheriff's Department. These calls could then be mechanically recorded on the existing equipment and the Sheriff's Department would have a record of all emergency calls in Dade County.

We believe this matter should receive immediate consideration by the Sheriff's Department, and that the County Commission provide the necessary funds for this service for its taxpayers.

ATTORNEYS' FEES

This Grand Jury, as did our predecessors, received complaints relative to the fees charged by attorneys.

Sometimes a problem occurs in real estate transactions when the attorney representing the purchaser also bills the seller for services performed, and payment is made through the closing costs. This arises from the preparation of certain documents beneficial to the seller even though the attorney may not have been requested to perform these services by the seller.

The Canons of Professional Ethics caution lawyers in representing conflicting interests.

"It is unprofessional to represent conflicting interests except by express consent of all concerned given after a full disclosure of the facts."

We believe that attorneys should refrain from representing both parties to a contract unless both parties are informed of the relationship in writing and agree, in writing, to the relationship. The highest standard of conduct is incumbent on attorneys in dealing with the public.

### ACKNOWLEDGMENTS

In concluding this report, we wish to express deep and sincere thanks to the Honorable Francis J. Christie, Circuit Judge. From the time of the comprehensive Charge at the impaneling of this Grand Jury and throughout the entire term that followed, we have found Judge Christie to be highly competent, in keeping with the highest tradition of his position, and at the same time completely considerate and courteous at all times. He has made himself available to this Jury whenever his presence has been requested and cooperated on every occasion to the convenience of this group.

We acknowledge with sincere gratitude the many years of dedicated and faithful service on the part of the Honorable E. B. Leatherman, Clerk of the Circuit Court. He and his staff have cooperated completely in every way in assisting this Grand Jury.

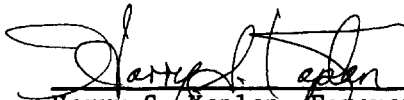
Certainly no one has contributed more to the difficult administrative efficiency of the work of this Grand Jury than Eleanor M. Robinson, our Administrative Assistant. The necessary administrative details involved in this work far exceed that which might be ordinarily thought to be the case. Her attitude toward this work and her spirit of helpfulness leave nothing to be desired.

Our Bailiff, W. Rufus Holzbaur, has performed his duties with courtesy and thoroughness at all times.

State Attorney Richard E. Gerstein, together with his staff, including Seymour Gelber, Roy Lee Jones, George Eadie Orr, and Arthur E. Huttoe, have demonstrated to this Grand Jury a degree of

professional competence, efficiency and sincerity such as is seldom seen among public servants. Theirs is a very difficult job which cannot be better analyzed from any other vantage point than the position which we on the Grand Jury have been privileged to hold during the past six months. The knowledge of the laws, together with their proper application and explanation by Mr. Gerstein, have certainly added a great deal to the understanding of and respect for the judicial system of which we are justly proud in this great nation. More than this, however, we have been impressed with the desire on the part of the State Attorney to see that justice is accomplished even when the circumstances might not prove to be politically expedient.

Respectfully submitted,

  
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Harry S. Kaplan, Foreman  
Dade County Grand Jury  
Spring Term 1964

Attest:   
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Kaye S. Marger  
Clerk

Date: November 10, 1964