

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

FALL TERM A. D. 1973

FINAL REPORT OF THE GRAND JURY

FILED

MAY 21, 1974

Circuit Judge Presiding

HAROLD R. VANN

Officers and Members of the Grand Jury

MICHAEL J. FRANCO, Foreman

CAROLYN H. EVANS, Vice Forewoman

GERTRUDE G. RAND, Clerk

WYNELLE CRAWFORD, Assistant Clerk

HORACE E. DREW, Treasurer

JOSEPH AKERMAN

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DOYNE MEDFORD CAPPS

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HELEN MENKEN

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MARGARET SUE MORENO

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Clerk of the Circuit Court

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Official Court Reporter

FRIEDMAN & LOMBARDI

\*\*\*\*\*

Bailiff

WALLACE D. CULBERTSON, JR.

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
EDDIE LEE REDDICK	First Degree Murder Assault with Intent to Commit Murder in the First Degree	True Bill
LAWRENCE RUSSELL FREEMAN and JAMES MICHAEL DONOVAN	First Degree Murder First Degree Murder	True Bill
THOMAS L. GILBERT and WILLIAM V. WATSON	First Degree Murder Robbery	True Bill
ROBERT MARTIN, DEWEY HICKS AND BILLY RAY WOODS	First Degree Murder	True Bill
FRANK DOUGLAS THOMAS JESSEE LEE CAUSEY DENNIS LEONARD VALDEZ GEORGE S. JOHNSEN DAVID WARREN BETHEL RONALD CHARLES QUAKENBUSH	Extortion Assault & Battery Conspiracy to Commit an Unnatural and Lascivious Act Committing an Unnatural and Lascivious Act	True Bill
ALBERT F. NIEKAMP	Second Degree Murder	True Bill
JAMES ALLEN, also known as ALLEN THOMAS	First Degree Murder	True Bill
BEATRICE GARNO	First Degree Murder	True Bill
WILLIE EDWARD MIMS	First Degree Murder	True Bill
ALBERT JONES	Second Degree Murder	True Bill
LLOYD GARMISE	First Degree Murder	True Bill
MERVIN THOMAS ARMBRISTER	First Degree Murder	True Bill
JIMMIE LEE PEARSON	First Degree Murder	True Bill
ANGEL DAVID LUGO	First Degree Murder	True Bill
RUDOLPH HUTCHINS	First Degree Murder	True Bill
JOLLY ALLEN, JR.	First Degree Murder	True Bill

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
BENJAMIN PEREZ	First Degree Murder Aggravated Assault	True Bill
ORIN KENT GILBERT	First Degree Murder	True Bill
NELSON HERNANDEZ	First Degree Murder	True Bill
HAROLD MITCHELL	First Degree Murder	True Bill
ROBERT WESLEY	First Degree Murder Assault with Intent to Commit First Degree Murder	True Bill
LEROY GREEN	Rape	True Bill
JUAN RAMON SANTANA	First Degree Murder	True Bill
JOHNNY B. COOPER	First Degree Murder	True Bill
ROBERTO GARCIA, JR.	First Degree Murder	True Bill
JOHN PANZAVECCHIA	First Degree Murder Unlawful Possession of Firearm by Convicted Felon	True Bill
STEVEN ROBERTS	Rape Robbery	True Bill
STEVEN HENRY ROBERTS	Rape	True Bill
OCTAVIO BEGAREN ZUNIGA	Second Degree Murder	True Bill
JAMES BURDINE ROLLE	First Degree Murder	True Bill
JORGE ACOSTA	First Degree Murder	True Bill
GARY HENRY MITTS	First Degree Murder	True Bill
TIMOTHY EDWARD SPICER	First Degree Murder	True Bill
BLAS ULISES RODRIGUEZ	First Degree Murder First Degree Murder Assault with Intent to Commit Murder Assault with Intent to Commit Murder Assault with Intent to Commit Murder	True Bill
FERNANDO PEREZ-ACEVADO	First Degree Murder	True Bill
CARL M. ROBINSON, RANDOLPH T. JENKINS and JOHNNY BERLIN SMITH	First Degree Murder	True Bill

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MIAMI POLICE DEPARTMENT

In 1970 the Dade County Grand Jury conducted an investigation of morale and communication problems within the Miami Police Department. The Jury concluded that there had been a failure to open lines of communication between the top echelon of command and the men in the field.

This Grand Jury has heard witnesses from the Miami Police Department of virtually every rank, including the Chief of Police and his top assistant. Those witnesses who were not part of the top echelon were unanimous in their testimony that a substantial morale problem exists within the department and that it has intensified since the Jury report of 1971. There continues to exist a communications gap between the command echelon and men in the lower ranks.

We recognize that in every organization there is bound to be a small cadre of irreconcilable malcontents, and in listening to a cross-section of the department, we made effort to avoid being the sounding board for the complaints of cliques.

The Fall Term 1970 Grand Jury stated that although there was a morale problem within the Miami Police Department, witnesses, speaking of Chief Bernard Garmire, who had been hired in 1969, were "almost unanimous in their praise of (Garmire) as an excellent administrator." Such praise was not heard this term.

This Grand Jury believes that the administrative abilities of the Chief of a Metropolitan Police Department are tested by and should be judged by his handling of exactly those problems which exist today in the Miami Police Department.

Beyond his administrative abilities, moreover, he should be the kind of leader who inspires his men to willingly follow orders, fulfill their assignments with dedication, and a man who communicates to his

men the feeling that he is interested in their total welfare. To the men in the ranks, the installation of a new administrative procedure, however brilliant, may not be as meaningful as, for example, a visit by the Chief to the family of a policeman killed in the line of duty. We have heard testimony of a number of situations in which the Chief has failed to take advantage of obvious opportunities to show the men in the field that they were led by "a cop's cop."

It is evident from our investigation that the report of the previous Grand Jury has not been implemented. We believe that the City Administration and the City Commission have also failed to take action to remedy the morale problem which has a direct bearing on police performance.

Repeatedly, the Grand Jury heard these complaints from Miami policemen:

1. Lines of communication were more open in previous administrations.
2. There is a lack of pride in the Department.
3. There is inadequate training in gathering evidence and giving testimony in court.
4. Patrolmen do not feel they have the support of their superiors; reprimands are given without adequate basis, and officers investigated by the Internal Security Section are often made to feel guilty until proven innocent.
5. Transfers in and out of specialized divisions such as Homicide are made in groups rather than on a staggered basis, too often requiring those divisions to investigate cases without experienced personnel.
6. Sergeants are not deployed in the field to achieve maximum

results of both supervision and support for men in the field.

7. Cliques within the department are increasing as a result of morale deterioration.
8. Promotions are made on the basis of a weight of 80% given to a written test and 20% to seniority, with no consideration given to performance. The top man on the register submitted by the Civil Service Board must be promoted.
9. To the police officer whose career is involved, there often seems to be no supervision of the Chief by those officials to whom he is responsible.

THE GRAND JURY RECOMMENDS:

1. Since the same conditions exist now as did in 1970, the City Manager and the City Commission should demand that Chief Garmire use all the authority vested in him to correct the conditions outlined. If he cannot improve morale and the performance of the department, new leadership should be sought.
2. The sheer number of complaints of specific nature, ranging from report procedures to the condition of motor pool vehicle equipment, indicates that additional seminars should be held to discuss morale, hear complaints, and give both administrators and rank and file officers a chance to exchange views.
3. The Chief of Police should make more personal appearances at roll call and be more visible to the men in the ranks.
4. Although the Grand Jury does not think this is a proper time to recommend solutions for every inter-departmental problem, it does strongly recommend a differential in pay for night duty.

The Grand Jury recognizes that effective police work is the



responsibility not only of the administration of the department, but of individual officers. The high calling of police work demands that an officer must consider himself a professional, even though certain conditions may not be to his satisfaction, and his conduct and performance should reflect this professionalism. Good communication requires a two-way flow and the Grand Jury strongly recommends that all members of the department do their share to keep the avenues open.

In conclusion, the Grand Jury recommends that surveys of the Miami Police Department now in progress by Booz-Allen Corporation and Stanford Research Corporation be given thorough study and implementation by not only the Chief, but by the City Manager and City Commission.

THE BEVERAGE DEPARTMENT AND ITS LAW ENFORCEMENT POLICIES

It has been traditional in this community for church, civic and fraternal organizations to raise funds for charitable purposes by staging raffles, Las Vegas nights or similar lotteries prohibited by the Florida Statutes.

The public, for the most part, is unaware that these activities constitute a crime. Among the reasons for lack of knowledge by the public has been the sporadic and uneven enforcement of sanctions against church, civic or fraternal organizations conducting these activities. We presume that this lack of enforcement is based upon the premise that law enforcement manpower should ferret out major gambling activities, especially those involving organized crime.

During the term of this Grand Jury a raid was conducted by the State Beverage Department and the Department of Public Safety at the Young Men's Hebrew Association where an annual Las Vegas night was being conducted with the proceeds to be used for underprivileged children. The evening's activities were halted and officers of the organization were arrested and charged with gambling and beverage violations.

The Grand Jury received complaints that the law was being unfairly and unevenly enforced, that the Y.M.H.A. had been singled out to be raided while other organizations conducting similar activities on a more frequent basis were not bothered. It was contended that the raid involved religious discrimination.

Accordingly, the Grand Jury conducted an investigation of enforcement practices of the State Beverage Department and the circumstances surrounding the raid and arrests at the Y.M.H.A.

The State Beverage Department has 13 agents to police and enforce

the beverage laws in 4,000 licensed premises in Dade and Broward Counties. These agents are required to enforce the gambling laws if the violation occurs on premises licensed by the Department.

Testimony before the Grand Jury revealed that the Beverage Department receives much of its information through anonymous complaints.

Two days prior to the arrests at the Y.M.H.A. an anonymous complaint was received alleging that a social function would be held with illegal sale of alcoholic beverages.

There had been two other complaints involving the Y.M.H.A. - one in 1972 and one in 1973. These complaints were investigated but no violations were found. Despite no violations having been discovered on two prior occasions and although the sole complaint was anonymous, no effort was made by the Beverage Department to deter a respected organization from violating the law.

With two days available to warn officers of the "Y" that they would be violating the beverage laws, no warning was given, nor was the organization told of the existence of a state law which would enable them to obtain a \$25.00 one day license to lawfully sell alcoholic beverages at their social functions. Instead, in an abundance of misdirected zeal, agents of the Beverage Department contacted the Department of Public Safety and conducted a raid arresting officers of the Y.M.H.A. who were otherwise law abiding citizens of good reputation.

The Beverage Department contends that the Y.M.H.A. had been warned in 1973 that these activities constituted a violation of the law. The warning was verbal, there is no record of it and the Beverage Department has no written record to show that the warning was given, nor any record of the person to whom it was given or

his position with the Y.M.H.A.

The operation of a law enforcement agency or any other governmental entity without records and with arrest policies that are haphazard and uneven destroys citizen confidence and discourages adherence to the law.

The Florida Legislature has passed a law providing that any organization may obtain a \$25.00 one day license to sell alcoholic beverages. This provision of the law is virtually unknown and the Beverage Department has done nothing to make the public aware of the existence of this legislation.

We approve vigorous enforcement of all the beverage and gambling laws of this State. However, the Beverage Department is unable to explain why a raid was made under these circumstances at a civic and fraternal organization engaged in charity work, without prior warning, when on two previous occasions no illegal activities were observed.

The practice of giving verbal rather than written warning must be changed. It lends itself to all kinds of abuses. The Beverage Department should immediately disseminate to the public information concerning the existence of legislation which provides for a daily license for civic, church, fraternal or other organizations so that they can sell alcoholic beverages in conjunction with social functions.

While we found no basis to conclude religious discrimination was involved in the raid on the Y.M.H.A., however, the uneven enforcement policies of the Beverage Department in regard to gambling in connection with charity events engenders suspicion in the minds of the public. If raids are to be conducted on church, civic and fraternal organizations conducting gambling, then they all should be raided after a written warning has been given to offenders or persons responsible for the activities of the organization.

SALE AND CONTROL OF HAND GUNS

This Grand Jury has heard evidence in murder cases and has read innumerable newspaper accounts of homicides committed by use of hand guns. Of all the capital cases to come before the Grand Jury, only three did not involve the use of such weapons. Price does not seem to be a factor in ownership as witnessed by the purchase of a pistol by one migratory worker from another for ninety dollars.

We are convinced that if this type of firearm was not so readily available to people in general, there would be fewer crimes of violence and many temper flare-ups would be settled by less lethal means.

In this regard, we are pleased to note that the Dade County Commission enacted an ordinance on November 12, 1973, which specifically prohibits the sale of "Saturday Night Specials" in Dade County. However, this is not enough because the problem is not limited to Dade County, but is statewide.

We therefore recommend that the State Legislature, to protect both the public and its police officers, enact legislation prohibiting the sale of hand guns throughout the State of Florida.

Unfortunately this report will receive attention for just one day. Therefore we urge the news media who have been alert to this problem to continue to bring it to the attention of the citizens through editorials and news stories which emphasize its impact on the crime rate.

TREATMENT FACILITIES AND SERVICES FOR CHILDREN

The Grand Jury, after filing its Interim Report on Detention Facilities and Treatment Facilities and Services for Delinquent and Dependent Children in Dade County, heard testimony from representatives of the Dade County Public Schools. These representatives described to the Jury the procedures utilized by the school system for providing special education for exceptional students including the mentally retarded and emotionally disturbed child.

We commend the school system for the significant steps it has taken to identify exceptional children at an early age and to provide these children with an appropriate educational program. Exceptional children are defined by the school system as "any child or youth who, because of physical, mental, emotional or learning disability is unable to receive an appropriate educational program as provided in a regular class setting and therefore requires the services of special facilities and/or special instruction."

We encourage the school system to continue its efforts to fully meet the needs of exceptional children.

The schools' responsibility is to identify children with problems and educate them. There are children, however, who need far more than educational programs to meet their needs. The Grand Jury continues to see a desperate need in this community for appropriate in-patient hospital facilities, group residential, and foster home facilities, psychological and psychiatric treatment, diagnostic and evaluation centers, and other community services for the emotionally disturbed, mentally ill and retarded child. We specifically see a need for such facilities and services for the dependent or delinquent child or the child in need of supervision who is often held in inappropriate detention facilities.

The Grand Jury continues to see a great need for one agency to coordinate the efforts of our schools, juvenile courts, and public and private child-concerned agencies to see that exceptional children are educated, treated, housed and cared for according to their needs.

ACKNOWLEDGMENTS

This Grand Jury is indebted to Harold R. Vann, Circuit Judge, for his counsel throughout our term.

The State Attorney, Richard E. Gerstein, and his Assistants have been extremely helpful to this Grand Jury. We are in the best position to report that neither the State Attorney, Richard E. Gerstein, nor any of his staff has attempted to exert influence or control the activities and investigations of this Grand Jury. To the contrary, Mr. Gerstein has stressed the independence of the Grand Jury. His office has pursued its duties with us in the most responsible manner.

The Grand Jury expresses its appreciation to Mr. Gerstein and his Assistants who are fine public servants.

Mr. Joseph Durant was most capable in command during Mr. Gerstein's serious illness.


We were privileged to have the able assistance of Janet Reno, Edward Carhart and George E. Orr, Assistant State Attorneys.

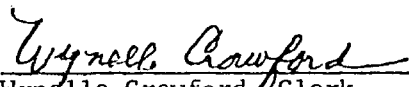
This Grand Jury wishes to make note of the outstanding professional capabilities of Sgt. Michael Gonzalez of the Miami Police Department.

Eleanor M. Robinson overcame a serious operation to perform her duties as Administrative Assistant in her usual outstanding fashion.

We extend our appreciation to Bailiff Wallace D. Culbertson for his courteous, competent discharge of his duties.

Respectfully submitted,

  
Michael J. Franco, Foreman  
Dade County Grand Jury  
Fall Term 1973

Attest:   
Wynelle Crawford, Clerk

Dated: May 21, 1974