

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

SPRING TERM A. D. 1976

FINAL REPORT OF THE GRAND JURY

Filed
November 9, 1976

Circuit Judge Presiding

HAROLD R. VANN

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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>
WILLIE JAMES CALHOUN	First Degree Murder	True Bill
MARIO MANCEBO	Lewd, Lascivious or Indecent Assault or Act Upon or in Presence of Child	True Bill
SHEPHARD ARNOLD MEGGETT	First Degree Murder Robbery	True Bill
OSCAR BAYATE	First Degree Murder	True Bill
JOHN WILLIE CLARK	First Degree Murder Robbery	True Bill
JOSEPH ROTH	First Degree Murder	True Bill
RICHARD LIVINGSTON SMITH and EUGENE CHARLES HOLLOWAY	First Degree Murder	True Bill
RODERICK EARL JOHNSON and BOBBY STANLEY	First Degree Murder Robbery Kidnapping Unlawful Possession of Firearm while Engaged in Criminal Offense	True Bill
VICTOR JONES	First Degree Murder	True Bill
LEE OTIS GREEN	First Degree Murder Kidnapping Involuntary Sexual Battery	True Bill
JERRY LEE HEMBREE	Involuntary Sexual Battery Burglary	True Bill
FRANK CASTELLANOS and FELIX ZAMOT	First Degree Murder	True Bill
RICHARD LIVINGSTON SMITH and EUGENE CHARLES HOLLOWAY	First Degree Murder	True Bill
CHARLES HEZZARD LEE, JR.	First Degree Murder	True Bill
DONALD GRAGGS	First Degree Murder Robbery	True Bill
ROBERT F. CARR	First Degree Murder	True Bill
ROBERT F. CARR	First Degree Murder	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
ROBERT F. CARR	First Degree Murder	True Bill
ROBERT LARRY GIBSON	First Degree Murder Involuntary Sexual Battery Burglary	True Bill
DOUGLAS FRANKLIN WALKER	First Degree Murder	True Bill
DANA DEWITT and STEVEN RAY OPELLA	First Degree Murder First Degree Murder First Degree Murder	True Bill
ESAW CODY BERNARD	Sexual Battery	True Bill
PARKER CHARLES PEAK, JR.	First Degree Murder Unlawful Possession of Firearm by Convicted Felon	True Bill
BEN B. TIDWELL	First Degree Murder Aggravated Assault	True Bill
BEATRICE WIMBERLY	First Degree Murder	True Bill
WILLIAM LEE BELLINGER	Second Degree Murder	True Bill
JOSEPH M. RODRIGUEZ, RENALDO REINO, SR., ALSO KNOWN AS RAY REINO, SR., AND RENALDO REINO, JR., ALSO KNOWN AS RAY REINO, JR.	First Degree Murder	True Bill
WALLACE MOSLEY	Second Degree Murder	True Bill
JERRY RUSSELL SABOL and NELSON EARL KOWALCZYK	First Degree Murder Robbery Conspiracy to Commit a Felony	True Bill
LEON APOLON	First Degree Murder	True Bill
ROBERT GEORGE WILLIAMS	First Degree Murder	True Bill
DAN TURNER, JR.	Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder Second Degree Murder First Degree Arson	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
WILLIAM ARTHUR LAMB, JAMES HUBERT SCARBERRY, EMERY PAUL ZERICK, WILLIAM LANE DABNEY	Battery ("A" Defendant only) Making a False Report ("A" & "B" Defendants only) Perjury ("A" Defendant only) Grand Larceny ("C" Defendant only) Conspiracy ("ALL" Defendants) Receiving Stolen Property ("A", "B", "D" Defendants only)	True Bill
DONALD EUGENE WHITE	First Degree Murder	True Bill
FRANCISCO RECINOS	First Degree Murder	True Bill
DAN TURNER, JR., and DAVID DeBERNARDIS	Conspiracy to Commit Arson First Degree Arson First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder	True Bill
JOSE ABRAHAM RIVERA GARCIA	First Degree Murder Robbery	True Bill
MICHAEL CLAUDE GRANT	Official Misconduct	True Bill
JERRY ANTHONY JONES	First Degree Murder	True Bill
KAREN GRAHAM and ROBERT HODGE	First Degree Murder	True Bill
JESUS LAZO and VALENTIN HERNANDEZ	First Degree Murder	True Bill
DAVID LEROY WASHINGTON, NATHANIEL TAYLOR, and JOHNNIE GARY MILLS also known as GARY O'NEAL	First Degree Murder Kidnapping for Ransom Robbery Conspiracy to Commit Robbery	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
JOHN HENRY KING, JR., and HERMAN ANDERSON	First Degree Murder First Degree Murder	True Bill
FRED McCLEOD	First Degree Murder	True Bill
RAYMOND EDWARD POLLARD	First Degree Murder	True Bill
PATRICIA ANN ANDREWS, also known as PATRICIA GENSLEY, MIKE JOSEPH DIAS, BRUCE DUNHAM and MARK SUBLETTE	First Degree Murder Robbery Burglary Grand Larceny	True Bill
JESUS LAZO, VALENTIN HERNANDEZ, JOSE PATRICIO, JOSE NAZIN ELIAS also known as JOSE ELIAS, RAUL HERNANDEZ, HECTOR CARBONELL, ENRIQUE VELASCO, GUIDO CARILLO, and LAZARUS LOZANO	First Degree Murder ("A" & "B" Defendants only) Conspiracy to Commit A Capital Felony ("A" through "H" Defendants only) Accessory After the Fact ("F", "G", "I" Defendants only)	True Bill
IGNACIO PEREZ	First Degree Murder Possession of a Firearm during the Commission of a Felony	True Bill
WILFREDO RODRIQUEZ also known as WILFREDO RODRIGUEZ	First Degree Murder	True Bill
MARVIN MAX DAMON and LINDA LADLER	First Degree Murder Breaking and Entering Dwelling and Unlawfully Assaulting Person Therein	True Bill
MAX SAINTSING	First Degree Murder	True Bill
CLIFFORD CLINE	First Degree Murder Attempted First Degree Murder Unlawful Possession of Firearm while Engaged in Criminal Offense Unlawful Possession of Firearm by Convicted Felon	True Bill

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DISCIPLINE AND SECURITY IN THE PUBLIC SCHOOLS

This Grand Jury continued the investigation into safety, security and discipline in the public schools. We also looked, in a limited way, at the overall quality of education being offered in the schools on the premise both areas are closely related.

In its inquiry, the Grand Jury heard from representatives of top level administration, students, teachers, a teacher's union leader, principals, school security personnel and local police.

From the representatives of the administration and principals, there is an admission that in the past our schools have produced a significant number of functional illiterates poorly equipped for survival in our complex and competitive society. These spokesmen contend this is in part due to the school system's acceptance and retention of almost all the available youth population, including those who have demonstrated an unwillingness or inability to master fundamental skills. The policy of compulsory universal education also plays a significant role in school discipline and security.

The administration assures us they recognize these problems in educational quality and steps are being taken on the local and state level to correct them. Such practices as social promotions (promotion of children who have reached a certain age, whether they know the work or not) are on the way out and coming in are such practices as emphasis on the basics and periodic comprehensive examinations to determine whether the child is capable of moving on to the next educational level.

One educator candidly admitted that any employer who today looks upon a high school diploma as evidence that a youthful job applicant can read, communicate orally and in writing, and perform basic

mathematical computations is indeed foolishly deluding himself. This Grand Jury hopes the day is not far off when an employer can again confidently accept the diploma as a certification of the bearer's ability to perform the basic skills of reading, writing and mathematics.

In the area of safety, security and discipline in the public school system, the views are as varied as the witnesses. Administration officials insist progress is being made and can point to some statistics to support them. Many teachers and students contend the problems are worsening.

The Grand Jury concludes that whichever view is correct there can be no argument that security and discipline continue to be serious and significant problems within the school system. Nor can there be any argument that undue amounts of time, money and other resources are presently expended in an effort to cope with these problems as opposed to the system's basic mission - providing quality education for our young people.

The Grand Jury recognizes these problems are first the responsibility of the students themselves, their parents and ultimately the community. Despite this recognition, the public has a right to expect the school system to do its part in coping with the problem. Quality education cannot exist in a chaotic environment.

Discipline in the schools must begin in the classroom. Therefore teachers must be given absolute authority to maintain order. If they presently have such authority, neither they nor the principals seem to understand it. We have heard accounts of teachers afraid to touch students or fail them for fear of incurring the wrath of the administration or parents. This concept of absolute authority must have the commitment of the administration, the

school board, the parents and the community if discipline in our schools is to be more than a topic of conversation. Teachers who fail to demonstrate their ability to wield this authority fairly and effectively should be removed from the classroom setting.

Teachers should be given formal training in group control and motivation. Events in the school system have clearly demonstrated such skills are important.

The Legislature has already addressed the matter of corporal punishment. The Grand Jury has heard a variety of conflicting views on its effectiveness. We support the present laws and urge the School Board to implement it in Dade County. We do not expect it to be a cure-all but rather a necessary step in the direction of restoring sanity in the school system.

The Legislature should also consider laws to protect teachers from frivolous and harassing lawsuits brought by parents and students. Such laws should make it as difficult to successfully sue teachers for actions in the course of performing their duties as it is for a civil litigant to collect punitive damages. Persons who unsuccessfully sue teachers should be required to pay the teachers' legal costs and attorneys' fees.

The alternative to giving the classroom teacher the primary responsibility for the maintenance of discipline and the power and protection to enforce it is to leave the responsibility dispersed throughout the school bureaucracy. The results are predictable. Teachers are forced to pass the buck to the principal. Even if he is willing to exercise his responsibility his actions cannot be as effective as action by the person on the firing line - the teacher. This is especially true in view of the size of our schools and the number of classes within them.

It is clear from our inquiry that the students responsible for most of the serious disruptions represent only a small portion of the student body. We have heard estimates that at most it is three per cent and it may be as few as one per cent. We are also told they are easily identifiable. What is not clear is whether these hard-core disrupters are dealt with swiftly, decisively or effectively. Apparently, few teachers or students feel anything significant is done in most cases.

The administration has attempted to deal with the problem with special classes, programs and schools. While it has been a step in the right direction it has not proven sufficiently effective, in our opinion.

We suspect one reason is that the hard-core disrupters have the attitude that their presence in the educational system is an absolute, unqualified right. The school administration itself espouses the view that virtually no student should be expelled no matter what the cost to the system. The theory is some education is better than none and throwing out the unruly only transfers the problem to the streets.

We respect the good intentions behind this theory but challenge its realism. We suggest it is responsible for many of the problems in our school system. We further suggest public education is neither "free" nor the unconditional right of anyone. It is a privilege which should be extended only to those who demonstrate a willingness to pay the "dues." These include agreeing to respect those rules of conduct necessary to create an atmosphere in which learning by everyone can take place. They also include a willingness to work at learning.

We are not suggesting to the school administration the whole-sale expulsion of troublesome students. We are suggesting:

1. That rather than wait until the student is in a secondary school and has already become a highly disruptive student, more attention and resources should be devoted to the identification of potentially disruptive students while they are in the elementary schools. The school system must pinpoint such students in the early grades since it is at this age that they can be influenced and helped. We recommend that the Legislature make whatever changes in the current laws necessary to allow elementary school children to receive the treatment or testing essential to correct their behavioral patterns. It is now the option of the parent to permit the school to seek special help for a disruptive student. If such permission is denied by the parents, then the school system should be able by court order to oblige the student to mandatorily be so examined. If the examination should show that the student has physical or mental deficiencies, and the parent either refuses or is unable to provide the required treatment, then the court should order the state to provide it.

2. Students sent to special programs or schools for disciplinary reasons should not be allowed to presume (as is apparently now the case) that their stay will be short. Their stay should be permanent unless they demonstrate their suitability for a conditional return to regular school programs.

3. Teachers should be given more say and less red tape in referring unruly students to these programs.

4. The stay of such students in such programs should not be a joyride. Rather it should be marked by hard work, close supervision and strong discipline. It should be made clear to such

students they have one foot out the door.

5. Top priority should be given to the needs of these special programs and schools, especially in terms of personnel. Only teachers who have demonstrated exceptional skills in dealing with such students should be assigned.

6. Such teachers should be given extraordinary incentives to succeed in this difficult task and upon their success the administration should be firmly committed to rewarding them in terms of recognition, sabbaticals and pay.

7. Alternatives to traditional academic education, such as vocational training, should be freely available to all students with the students, their parents and the school system all having a role in the decision of which shall be pursued.

8. Students who by their behavior demonstrate they are unreachable by any of these means should be referred to the courts for placement in programs outside the regular school system. In appropriate cases early retirement from the school system should also be considered.

We urge the administration to recognize there are some young people who just will not function in the regular school system. Once identified they should be expelled. While this may be distressing, the alternative has proven to be the robbing of the great majority of students of the opportunity to educate themselves in peace and safety.

In the course of this inquiry, the Grand Jury has heard many complaints from those in the school system that their efforts to maintain discipline and security are not effectively backed by the Division of Youth Services and the Juvenile Courts. In some cases the critics suggest the problem is caused by lack of man-

power and resources of these agencies.

One area of particular concern is the matter of theft and vandalism of school property.

The Florida Parent Responsibility Law (Fla. Statutes 741.24) provides:

"Civil action against parents; willful destruction of property by minor.-

(1) Any municipal corporation, county, school district and department of Florida; any person, partnership, corporation or association; or any religious organization, whether incorporated or unincorporated, shall be entitled to recover damages in an appropriate action at law in an amount not to exceed \$1,000 in a court of competent jurisdiction from the parents of any minor under age of 18 years, living with the parents, who shall maliciously or willfully destroy property, real, personal or mixed, belonging to such municipal corporation, county, school district or department of the state, person, partnership, corporation or association or religious organization.

(2) The recovery shall be limited to the actual damages in an amount not to exceed \$1,000 in addition to taxable court costs."

School officials report that while the Courts often order the offender and his parents to pay restitution and make it a condition of probation, little effort is made by the Courts or the Division of Youth Services to enforce these orders.

The Grand Jury recommends:

1. Strict enforcement of the Florida Parent Responsibility Law by the school system, the Division of Youth Services and the Juvenile Court.

2. The school system should make every effort to obtain civil judgments against the offenders and their parents and record them as part of the enforcement effort. The State Attorney's Office and the Courts should cooperate in obtaining consent judgments while related delinquency proceedings are pending before them.

3. For offenders and parents who can't afford restitution, work programs should be established for offenders to work off their debt. We have heard the schools' insurance carriers may object but this should not be allowed to stand as an obstacle. There must be plenty of non-dangerous work - such as, picking up litter or cleaning dirty dishes - at every school.

4. The Legislature should review the Juvenile Court System, including related agencies as Division of Youth Services, to determine whether school officials are receiving proper backing and whether the proper resources are available.

We consider these recommendations not only fair to the taxpayers who pick up most of the bill at present for vandalism and theft but absolutely essential to creating an attitude of discipline and respect for the school on the part of its students.

The Grand Jury also interviewed witnesses in connection with the recent brutal robbery of a 16-year-old coed in the halls of Miami Beach Senior High School. We did not inquire into the merits of the case of the individual arrested for the crime as this will be handled in the Courts in due course.

We viewed the incident as an opportunity to learn on an actual case basis how the school system reacts to such emergencies, whether a realistic level of protection exists for students and school personnel, whether it is appropriate for such an incident to be treated, at least initially, as an in-house affair and whether it is appropriate for the School Board to maintain its own police department in the form of a Security Services Department.

We will not belabor the details of the incident as these have already been widely reported in the media. We conclude that given the size of our school system, the number of people in it and the

number of persons with access to it as well as its urban setting, it is impossible to totally eliminate such incidents.

We are troubled by the conflicts over whether school personnel and the Miami Beach Rescue Squad acted effectively in this situation. There is no conflict over the fact that initially the Miami Beach Police Department was not called upon for assistance in such a serious incident. The principal involved states he did not have a sufficient description of the offender to warrant calling the police. The school security guard involved did not initially consider the incident serious enough to call for police assistance. More significantly, the principal admitted he and other principals are confused as to what the School Board's policy required of him in such situations. Also troubling was our discovery that the alleged offender in this incident, a former student of the school, had earlier created a disturbance at the school and no decisive action was taken against him by the principal.

There can be no question that if this incident had occurred on the streets of Miami Beach, not only would a police officer have been called to the scene but the entire department would have been alerted. Common sense dictates the same should have occurred even though the incident occurred on the school property.

We think this incident also spotlights the danger of too great a reliance on the School Security Services Department by the system.

The Department has an authorized strength of 80 and an actual force of 69 men to protect more than 200 schools and more than 200,000 students. It is clear this department can be little more than an immediate response resource. The Security Services Department must develop closer contacts with and greater reliance upon the resources of the various local police agencies.

Apparently, this is already being done in cities such as Miami and Coral Gables which assign a police officer (called a school resource officer) to each school in their jurisdiction. By policy, Dade County Public Safety Department handles only homicide, sexual battery and bomb threat investigations in the schools. We suggest this policy should be reviewed and greater participation offered by the Public Safety Department in the battle to maintain discipline and security in the schools.

We conclude the School Board's operation of its own police department is presently necessary even if not ideal. We urge, however, that the existence of this department not be used as an excuse by persons in the school system to ignore the resources available in local police agencies, nor as an excuse by these local police agencies to ignore their responsibility to this important aspect of our community.

In conclusion, the critical remarks in this report should not be allowed to obscure the fact that there are many dedicated and effective individuals employed in the school system. Nor should the attention given the disruptive students obscure the fact that most students are a credit to themselves and the community.

We do suggest there is much room for improvement in this important community institution. We have reviewed the recommendations of the Fall Term 1975 Grand Jury. We endorse them and urge the School System to more effectively implement them.

We do not contend this Jury's recommendations are the final word. We do hope they are another step in the right direction.

LAND ACQUISITION BY DADE COUNTY

The prices paid for land acquired by Dade County have been brought to our attention by a series of articles in the news media.

From the information available to us it appears that after the County Commission makes the decision to acquire property, the responsibility for purchasing the property is delegated to a division of public works. If this division fails to conclude a purchase the responsibility is then passed to the County Attorney's office for settlement or court action.

To keep the County Commission adequately informed, to provide a coordinated program and hopefully reduce costs, we recommend the supervisory responsibility for county land purchases be transferred to the County Manager.

We also strongly recommend that the incoming Grand Jury monitor progress with regards to this recommendation, as well as investigate recent controversial purchases.

TERRORIST ACTIVITIES IN DADE COUNTY

This Grand Jury heard testimony from an admitted member of an anti-Castro terrorist group known as, "Los Pragmatistas." This witness testified before the Grand Jury that this group conspired to murder certain people whom the group considered to be too soft on Castro.

Two of the targets of the group were Max Lesnik, who is the editor of "Replica," a local Latin magazine, and Luciano Nieves, a former captain in the Cuban Army. These men were marked for death due to the fact that the group members felt that they were advocating peaceful co-existence with Castro's Cuba. According to

testimony, one of these men, Luciano Nieves, was actually murdered by the group.

Further testimony revealed that the group finances itself through other acts of terrorism, such as arson for hire and kidnapping. Additionally, terrorist groups finance their activities by extorting legitimate business men in the Latin community.

While the Grand Jury realizes that many Cuban exiles living in Dade County justifiably harbor great resentment towards Castro's Cuba, these feelings cannot justify murder or any other acts of terrorism. We would hope that the responsible, law abiding members of the Latin community will report these activities, testify to them and cooperate with law enforcement authorities.

This country has always been a refuge for political exiles and those fleeing oppression. We hope it always will be. However, those who seek the protection of the American way of life must be prepared to live under and within our laws. They cannot be permitted to settle their disputes through violence.

The Grand Jury would be naive if it were to conclude that the Pragmatistas were the only such group involved in terrorist activities in Dade County. On the contrary, many similar groups presently exist in our County.

All law enforcement agencies are urged to continue their investigations into these groups with the fervent hope that an end can be put to terrorist activity in Dade County.

We urge the incoming Grand Jury to continue to be vigilant in the investigation of terrorist activities.

MIAMI BEACH POLICE DEPARTMENT

We have conducted an investigation of certain members of the Miami Beach Police Department which resulted in the indictment of five police officers.

It was extremely disturbing to find a small percentage of Miami Beach police officers involved in the most pernicious kind of thievery. These officers felt that any one was fair game for them. They took money from the homes of victims of crime, from defendants and from dead bodies.

We were gratified to find that the command echelon of the Department and its internal affairs section gave the State Attorney and the Grand Jury full cooperation in investigating and rooting out the offenders. We are satisfied that adequate checks and balances have been established by Miami Beach Chief of Police, Rocky Pomerance, to guard against this reprehensible activity and to respond to it when it does occur. It is important for the public to realize that we were investigating a small group of officers and this report is not intended to reflect on the entire department.

We recommend a review of Miami Beach civil service regulations with a view toward giving the Chief of Police wider latitude to suspend errant officers for infractions of department policy.

During the course of our activity we called a Miami Beach police officer before the Grand Jury. He was requested to sign a Waiver of Immunity and advised that the Grand Jury desired to interrogate him concerning his official duties. The officer acting on the advice of counsel refused to sign the Waiver of Immunity. One of the great fundamental freedoms that we enjoy

as Americans is the right to invoke any of the constitutional protections. However, there is no absolute right to hold a public office, or public employment. We feel strongly that any person in the public employ should be willing to waive immunity before the Grand Jury and respond to any questions concerning the performance of his official duties.

NURSING HOMES

The Grand Jury's attention was drawn to nursing homes by revelations that some nursing home operators have been coercing "donations" from the relatives of Medicaid patients. Although the cost of caring for these patients is borne by the government, nursing home operators frequently demand hundreds of dollars a month from their families as a condition of admission and continuing care. Legislation, effective October 1, 1976, forbids the collection of such involuntary donations and we urge vigorous public support for the prosecution of infractions of that law.

Nursing home operators have been able to coerce funds because the potential for abuse or neglect of patients is often a palpable reality. The Jury heard testimony that an elderly woman whose family could no longer keep up the \$200/month "donation" was moved to the "snake pit" ward, where patients wander about, often nude and filthy, inadequately supervised and in deplorable conditions of stench and dirt. The woman was later moved to another home without notification to her relatives.

The Florida State House of Representatives report from the Subcommittee on Nursing Homes (January, 1976), found that "Basic human rights of residents are not fully protected in all nursing homes, "because the homes may allow freedoms to be compromised in

as Americans is the right to invoke any of the constitutional protections. However, there is no absolute right to hold a public office, or public employment. We feel strongly that any person in the public employ should be willing to waive immunity before the Grand Jury and respond to any questions concerning the performance of his official duties.

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The Florida State House of Representatives report from the Subcommittee on Nursing Homes (January, 1976), found that "Basic human rights of residents are not fully protected in all nursing homes, "because the homes may allow freedoms to be compromised in

the interests of orderliness." The testimony we have heard from the public and from representatives of the state regulatory agencies tends to support this and the further conclusion that, "The State, through its executive agencies, is not forcefully insuring that the rights of nursing home residents are fully protected."

The Department of Health and Rehabilitative Services has recently established two programs aimed at improving nursing home care, the Nursing Home Ombudsman Committee and the Adult Abuse Hotline (1-800-342-9152). These programs are a step in the right direction and if they have vigorous leadership they may serve to improve conditions for the elderly. However, state, federal and county agencies will have to do a major overhaul of their regulatory agencies if patient welfare is to be assured.

To protect the rights of the elderly in Dade nursing homes, we recommend the following actions:

1. That HRS (Department of Health and Rehabilitative Services) establish a clear and detailed set of standards, based on patient comfort and welfare, to replace the current confused and inadequate regulations.
2. That a single, decentralized unit for inspection and enforcement be established and adequately staffed.
3. That this unit establish and vigorously enforce specific timetables for the imposition of fines, revocation of licenses and criminal penalties when regulations are violated.
4. That HRS publish ratings of the quality of care provided in the nursing homes, and that the homes be required to post these ratings.

5. That the state and county develop academic and vocational training programs, internships, etc., on all levels of geriatric and nursing home care. At present there are almost no training requirements or educational facilities for nursing home employees.

6. That minimum qualifications for aides be established and that pay and advancement incentives for staff be provided to cut the high turnover in employment and to professionalize staff positions.

7. That nursing home operators be required to prepare clear, well-documented cost reports. At present, the ad hoc Subcommittee Report on Nursing Homes notes that the data on cost of care is speculative because cost reports are unaudited and there is no uniform system of cost accounting. The report estimates that the "average cost of providing care per resident day in Florida for the month of May, 1975, was \$13.60." Medicaid payments average \$16.60 - \$20.00 per day.

8. That patients, their families and members of the general public who observe or have knowledge of legitimate complaints of abuse or neglect should notify the Adult Abuse Hotline - (1-800-342-9152).

9. That a statement of patient rights be set out by statute and widely publicized and enforced. Such a statement should cover at least the following:

- a. The right to civil and religious liberties.
- b. The right to courteous and respectful treatment.
- c. The right to privacy in treatment and in caring for personal needs.
- d. The right to security in person and possessions.
- e. The right to medical care and full information on one's condition.

- f. The right to present grievances without fear of reprisals.
- g. The right to private consultations with physicians, attorneys, and any other person.
- h. The right to freedom from physical and chemical restraints except those authorized by a physician for a specified period of time, and administered by qualified medical personnel.
- i. The right to a full statement of services available and provided.
- j. The right to manage one's own financial affairs if one is capable or to have a regular accounting made of any delegated financial affairs.

DADE COUNTY PARKS AND RECREATION FACILITIES

Dade County, with 10,000 acres reserved for recreational use, has one of the largest parks systems in the nation. Last year, attendance was estimated in excess of 16 million. The significant role the parks have in the community can not be overstated. The Grand Jury during on-site inspection and investigation found, in some instances, neglect of routine maintenance which has led to serious deterioration. The natural resources indigenous to Haulover Beach, Virginia Beach and Greynolds Park are endangered. We discovered repeated instances of eroded walkways and parking sites, inoperable plumbing, broken tables and benches, inferior maintenance of grass and sand, a collapsed pier at Haulover Beach without marine navigation warnings, and insufficient safety barricades. There is an unending list of dilapidated facilities.

The Grand Jury is puzzled at a program which spends funds on acquiring new property while permitting established parks to be ignored to the point that they require costly reconstruction.

The passage of the Decade of Progress bonds has created the paradoxical situation of funding new parks to the detriment of existing parks. Testimony revealed, that by a nimble transfer of funds, regular tax revenues were diverted to the use of departments that did not receive favorable bond funding from the voters.

This is contrary to the promise inherent in the bond's balloting which included the phrase: "...of paying, with any other additional funds, the cost of RECREATIONAL AND CULTURAL IMPROVEMENTS AND FACILITIES." Insensitivity to public opinion is evident until concerned citizens mount a strong protest.

There are inequities in the fee systems, particularly in parking lot charges where the policy seems to be based upon charging those who don't complain.

Until public outrage halted it, there were plans for locating a shopping center at Haulover Beach and a library in Greynolds Park. We are disturbed to learn that the county is contemplating construction of an open-air theatre at Virginia Beach, or some use of that facility other than as a beach.

Vizcaya is a prime tourist attraction as well as vital to the community's cultural life. Public attention has been drawn recently to the fact that much of its statuary and other facilities are deteriorating. Vizcaya is too priceless, too unique, too important for this to be allowed to happen. The structural deficiencies were reported to the Metro Commission two years ago. Again we call attention to the words in the Bonds for Progress, which specifically stated, "improvements at Vizcaya ..."

Vizcaya has been self sustaining through the efforts of volunteers. A similar situation exists at the Museum of Science. Volunteer

citizens should not be expected to carry this responsibility. Indeed approval of the Decade of Progress issue by the voters was a directive that the county provide fiscal support.

To correct the conditions we found, we recommend:

1. Immediate restoration of Haulover Beach, Greynolds Park and other long established parks in the system.

2. That Virginia Beach, which is one of the most beautiful expanses of available water front property, be given an adequate expenditure of money and effort to make it a prime park in a section of the county that has had a remarkable increase in population.

3. Metro should provide adequate staffs for maintenance, security and upkeep of beaches.

4. The parks department should submit a detailed report on plans for expansion and upgrading with projected timetables.

5. Before any change is made in existing park usage, public hearings should be held and substantial consideration given to the views of residents, conservationists and others interested in esthetics.

6. The succeeding Grand Jury should continue this investigation if warranted, and monitor progress in this area.

All officials are custodians of public property. The Metro Commission must not abandon its responsibility of preserving public lands for leisure time use by the public.

THE METRO TRANSIT SYSTEM

A community whose public bus system ranks last among 28 surveyed cities in its ability to get people to work has a substantial problem. A community whose bus riders have to wait an average of 15 minutes for a bus during rush hour and up to an hour at other times is hardly providing adequate service. To further emphasize the problem is the fact that the bus system is currently operating at an annual deficit of nearly \$20 million. The projected annual deficit for 1979-'80 is \$24 million.

The Metro Transit Agency is a hand-to-mouth operation. Each day up to 100 breakdowns of buses strand thousands of passengers. Riders also complain of frequent air conditioning failure in buses in which windows cannot be raised, dirty buses, interminable waits and a variety of other ills. The conditions are intolerable.

These problems did not begin last week or last year. They have resulted from years of inadequate maintenance and the failure to have a mechanic training program. Additionally, the need for increased service has forced older buses, which were retired, back into service. Of course, these buses are even more prone to breakdown. The Metro Commission has the ultimate responsibility for the Metro Transit Agency and thus is accountable for these conditions.

The Agency purchased 202 new buses during the 1976 fiscal year to alleviate its problem. However, only 140 of these buses were delivered by American Motors, the manufacturer. Those that have been delivered have been plagued with mechanical problems. These American Motors buses had given unsatisfactory service in other cities, but were purchased pursuant to a federal directive. The new buses are being modified at the manufacturer's expense. While this is being done they are not available for service, thus adding

to the woes of the system.

The new MTA Director, Ernest R. Gerlach, has assured the Grand Jury that he is addressing many of these problems. There has been an increase in the number of maintenance personnel and for the first time a mechanics' training program has been instituted. The repair shops are being reorganized with skilled supervision and additional maintenance facilities are planned.

These measures are a step in the right direction, but they are not enough. Presently, only about 150 mechanics perform the inspections, repairs, and overhauls on approximately 600 buses. The system should double this number of mechanics to insure that an adequate number of buses will be in proper working condition. The MTA cannot continue to rely on the purchase of new buses to maintain reliability, but must properly service its present equipment.

For the most part, the Metro Transit System has captive customers. A high percentage of bus riders have no option other than to ride the buses in whatever condition they may find them.

The MTA has an obligation to give these people a decent product for their fare.

FIRE PREVENTION

As requested by the previous Grand Jury, the current Grand Jury monitored the progress towards the development of a sound fire prevention program. We began by an examination into this area in connection with our investigation of nursing homes.

As pointed out by representatives of the City of Miami Fire Department, and the Metropolitan Dade County Fire Department,

there are many residential hotels that house numerous elderly persons just as in institutional nursing homes.

These residential hotels are not placed in the same category as nursing homes, as far as fire codes are concerned, due to the difference in the degree of care provided to the tenant by the facility. This allows many elderly people, in situations similar to persons living in nursing homes, to be housed in buildings that are not required to comply with the stricter fire code provisions that pertain to nursing homes.

Both the Miami Fire Department and the Dade County Fire Department suggested that such residential hotels be required, through reclassification, to meet requirements that are more in line with those that relate to nursing homes.

Chief D. A. Hickman, of the City of Miami Fire Department, while addressing himself to the above matters, also responded to recommendations made by the 1975 Fall Term Grand Jury. Chief Hickman agreed that there was a need, as pointed out by the Grand Jury, for additional staffing to have a truly professional Fire Prevention Bureau. The Fire Department's budget for 1976-'77 requested the position of "Fire Protection Engineer." This budget request closely paralleled the Grand Jury's recommendations. Chief Hickman further indicated, however, that that position has not been approved "due to budget restraints." Again the Grand Jury recommends the creation of this position and that the necessary funds be allocated without delay.

An additional staffing problem appears to stem from the fact that the job classification of "Fire Inspector" still remains the least desired assignment in the City of Miami Fire Department. Chief Hickman has attempted to rectify this situation through the

submission of an incentive pay plan to the City of Miami's Labor Relations Office.

The importance of fire inspection and prevention is obvious. The City of Miami and Dade County governments and the respective fire departments must elevate this position in rank and pay to attract the best qualified personnel to serve in that capacity.

In response to the Grand Jury's recommendation that a full-time attorney be provided to the Miami Fire Department to assist in revising the Code, as well as assisting in the vigorous implementation of Code provisions, we are advised that the City Manager has provided the Fire Department with an attorney from the City of Miami Law Department on a part-time basis.

Our investigation revealed a serious void in inspection for fire hazards and enforcement of the fire code in relation to mobile homes. It is essential that this problem be addressed and remedied.

It should also be noted that, both statewide and locally, there still exists no certification examination for Fire Inspectors. Fire inspectors have, however, attended courses taught by Miami Dade Community College, the Dade County State Attorney's Office, the Florida State Fire Marshals, the Florida State Department of Health, and other authorities in this field.

Equally as important as obtaining progress in the area of fire prevention is preserving the benefits of the progress already achieved. We note with some concern that, although the fire service was instrumental in the passage of Chapter 52 of the South Florida Building Code requiring all new buildings exceeding 36 feet to have a sprinkler system, that same Chapter has recently been amended so as to only require sprinklers in

new buildings that exceed 50 feet in height.

While there has been some improvement in this area, much more remains to be done. While the Code relates to structures, it must be remembered that the most valuable commodity that we are seeking to protect is human life. We earnestly hope that those persons who have it within their authority to enact improvements and supplement budget appropriations do so expeditiously. The need exists now. Let's not wait for another tragedy to reactivate the public conscience.

We commend the fire chiefs of both Miami and Dade County for their attention to the problems outlined in this report and the report of the prior Grand Jury. This is a continuing problem. We urge future grand juries to address it.

RECOMMENDATIONS WITH RESPECT TO THE GRAND JURY SYSTEM

We have had a rare and invaluable opportunity to participate in the Grand Jury System. After having served, we consider it an honor and a privilege. We have found the Grand Jury to be an effective institution through which citizens may act to correct problems within the community. We believe the Grand Jury should be sustained, encouraged and made as effective as possible.

With this in mind, we make the following recommendations:

1. The present method of selecting grand jurors from names proposed by the Circuit Judges should be continued, to insure the selection of grand jurors

who are competent to deal with complicated problems the jury must consider.

2. The orientation of new grand jurors should be more complete and effective in order to escalate the Grand Jurors' efficiency in expediting its duties.
3. The foreman of the outgoing Grand Jury should meet with the incoming Grand Jury as needed and desired by the new Grand Jury.
4. Good attendance and attitudes of its members are very important for a Grand Jury to perform effectively. The make-up should be with members who want to serve. Citizens who cannot attend most of the time or for any reason cannot perform the duties required of the Grand Jury should be excused.
5. The Grand Jury facilities and area in the Dade County Court House should be improved in order to promote the concept of secrecy of the Grand Jury.
6. Compensation for County Grand Jurors should be the equivalent of that paid to Federal Grand Jurors.

ACKNOWLEDGMENTS

JUDGE HAROLD R. VANN

We take this opportunity to express our appreciation to presiding Judge Harold R. Vann. We found him to be very confident, knowledgeable and patient for which we are grateful.

RICHARD E. GERSTEIN, STATE ATTORNEY

EDWARD CARHART, CHIEF ASSISTANT STATE ATTORNEY

EDWARD O'DONNELL, ASSISTANT STATE ATTORNEY

These men exemplify the dedication and integrity of fine public officials. They have provided strong leadership and guidance for the Grand Jury and have been tireless in the pursuit of justice.


MADELINE CAMP, ADMINISTRATIVE ASSISTANT

Madeline Camp is to be commended for her good humor, pleasant manners and skill in performance of duties. This is particularly notable as it was her first term in this position.

WALLACE D. CULBERTSON, BAILIFF

Thanks for the courteous manner in which you discharged your responsibilities to the Grand Jury. We found Mr. Culbertson to be very capable and cooperative and pleasant.

Respectfully submitted,


Ottis A. Mooney, Foreman
Dade County Grand Jury
Spring Term 1976

Attest:


Sidney W. Langer, Clerk

Dated: November 9, 1976