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

SPRING TERM A. D. 1977

FINAL REPORT OF THE GRAND JURY

Filed

January 5, 1978

Circuit Judges Presiding

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FRANCIS J. CHRISTIE

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Bailiff

IRA J. CALLMAN

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

Defendant	Charge	Disposition
DENNIS ANDREW HEGSTROM	First Degree Murder Robbery	True Bill
EDDIE LEE THOMAS and DONNELL HENRY	First Degree Murder Burglary Robbery	True Bill
RUDOLPH BROUSSARD and DONNELL HENRY	First Degree Murder Burglary Robbery	True Bill
DANTE DINO, JR.	First Degree Murder	True Bill
TERRY WAYNE GILES	First Degree Murder Attempted Murder in the Second Degree	True Bill
JESSICA CARTER	First Degree Murder	True Bill
ALONZO WINFRED BRYANT	First Degree Murder Robbery	True Bill
ALONZO WINFRED BRYANT	First Degree Murder Robbery	True Bill
ELVIN SANTIAGO CAMACHO	First Degree Murder	True Bill
BARBARA JEAN JONES	First Degree Murder	True Bill
DENNIS ANDREW HEGSTROM	First Degree Murder Robbery	True Bill
HOMER CLAUDE VIERS	First Degree Murder Attempted First Degree Murder	True Bill
GUADALUPE MORENO	First Degree Murder Attempted First Degree Murder Possession of a Firearm in the Commission of a Felony	True Bill
RONNEY ALBERT ZAMORA and DARRELL M. AGRELLA	First Degree Murder Burglary Dwelling Possession of a Firearm while Committing a Felony Robbery	True Bill

Defendant	Charge	Disposition
RICHARD B. SCHWARTZ	First Degree Murder Carrying a Concealed Firearm	True Bill
EDDIE LEE REDDICK	First Degree Murder	True Bill
DOUGLAS BROWNER	First Degree Murder	True Bill
RICHARD HENRY MARLOWE and MARVIN LeROY WHIPPLE	First Degree Murder Robbery with a Firearm Possession of a Firearm while Committing a Felony	True Bill
MARC SANFORD EASON	First Degree Murder First Degree Murder	True Bill
STEVEN ALLAN STANLEY	First Degree Murder First Degree Murder	True Bill
ALFRED JOHN YOUNG	First Degree Murder	True Bill
MILTON FACEN	First Degree Murder Unlawful Possession of a Firearm in the Commission of a Felony	True Bill
BARRY SCOTT ADLER and ANDREW STUART SCHELL	First Degree Murder ("A" Defendant Only) Robbery ("A" Defendant Only) Kidnapping ("A" Defendant Only) Unlawful Possession of a Weapon while Engaged in Criminal Offense ("A" Defendant Only) Accessory After the Fact ("B" Defendant Only)	True Bill
JOSE MIGUEL BATTLE	Conspiracy to Commit a Felony Solicitation of a Felony First Degree Murder	True Bill
ALVETTA PERRY	First Degree Murder	True Bill
RAFAEL ALBERTO VIERA	Carrying Concealed Firearm Shooting within Occupied Building First Degree Murder Attempted First Degree Murder	True Bill

Defendant	Charge	Disposition
MARVIN FRANCOIS, BEAUFORD WHITE, ADOLPHUS ARCHIE, and JOHN ERROL FERGUSON	First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder First Degree Murder Attempted First Degree Murder Attempted First Degree Murder Robbery Robbery Robbery Robbery	True Bill
FELIX RAMON CARDENAS-CASANOVA also known as FERNANDO CARDENAS also known as CUCUSO	First Degree Murder Possession of a Firearm during the Commission of a Felony	True Bill
DELROY GIBSON	First Degree Murder	True Bill
FREDDIE LEE HILTON	Attempted Kidnapping Burglary Robbery	True Bill
EMERY HERSHALL TIMBERLAKE	Kidnapping Involuntary Sexual Battery Aggravated Battery Involuntary Sexual Battery Unlawful Possession of a Weapon while Engaged in a Criminal Offense First Degree Murder Robbery Unlawful Possession of a Weapon while Engaged in a Criminal Offense	True Bill
JOHNNY TIPTON STRAUGHTER, also known as JOHNNY TIPTON, also known as JOHNNY WILLIAMS	First Degree Murder Possession of a Firearm during the Commission of a Felony	True Bill

Defendant	Charge	Disposition
WILLIE JAMES McBRIDE	Involuntary Sexual Battery Burglary of a Dwelling	True Bill
FRANK WISE and DAVID LEE EPPS	First Degree Murder Possession of a Firearm by a Convicted Felon Possession of a Firearm by a Convicted Felon	True Bill
JORGE ZAYAS, JUAN CARLOS QUINTERO, DANNY PLACIDO MARRERO, and KIMBERLY ANNE POWERS	Burglary ("B","C","D" Defendants) Robbery ("B","C","D" Defendants) Kidnapping ("B","C","D" Defendants) Shooting into an Occupied Dwelling ("B","C","D" Defendants) Unlawful Possession of a Firearm while Engaged in a Criminal Offense ("B","C","D" Defendants) Burglary ("A","B","C","D" Defendants) Robbery ("A","B","C","D" Defendants) Unlawful Possession of a Firearm while Engaged in a Criminal Offense ("A","B","C","D" Defendants) Burglary ("A","B","C","D" Defendants) Robbery ("A","B","C","D" Defendants) Kidnapping ("A","B","C","D" Defendants) Unlawful Possession of a Firearm while Engaged in a Criminal Offense ("A","B","C","D" Defendants) Burglary ("A","B","C","D" Defendants) Robbery ("A","B","C","D" Defendants) Kidnapping ("A","B","C","D" Defendants) Unlawful Possession of a Firearm while Engaged in a Criminal Offense ("A","B","C","D" Defendants) Aggravated Assault ("B","C","D" Defendants) Aggravated Battery ("A","B","C","D" Defendants)	True Bill

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INVESTIGATION OF THE AD VALOREM

(Real Estate) TAX SYSTEM

IN DADE COUNTY, FLORIDA

Our investigation, the Circuit Court Opinion of November 4, 1970 (No. 70-17044-Lee), and the Spring Term Grand Jury Report of 1971, made a part hereof, has led us to the following recommendations:

1. Dade County real estate must be reassessed immediately in order to achieve a uniform and equitable tax roll. It must be done under the supervision of an objective person or persons independent of the Property Appraiser's office, utilizing local professional opinion and reviewed by a lay Tax Roll Recommendation Review Board made up of all categories of taxpayers.

2. The taxpayer must be afforded the opportunity to better air his grievances before the proper authority without undue expense, inconvenience or burden.

3. Until these recommendations are implemented future tax rolls will continue to contain substantial inequities and should not be certified by the State of Florida.

This Grand Jury was dismayed to find that recommendations made in 1970, 1971 and in 1976 by previous Grand Juries and by the Circuit Court have been ignored by the responsible authorities, including the State of Florida Department of Revenue, which is charged with certifying an accurate Tax Roll.

To further emphasize these points, we hereby make the Grand Jury Report of 1971 a part of our report. The last sentence specifically states that the "County Commission be urged to provide the funds necessary to bring into being an equitable and uniform Tax Roll." Sworn testimony reveals that these funds were not provided.

As a result the Grand Jury Report was swept under the rug and the Circuit Court ruling was ignored. Thus the tax roll continued with serious inequities. Herein is the Spring Term 1971 Grand Jury Report in full in which we totally concur.

SPRING TERM 1971 GRAND JURY REPORT IN FULL

"Our investigation of the Dade County Tax Assessor's Office and its methods of assessing property in Dade County, has led us to the conclusions that the 1970 Real Property Tax Roll contains substantial inequities and lacks uniformity. Some of the matters leading to this conclusion are as follows:

1. Judge Thomas E. Lee, Jr., in the case of Miami Board of Realtors vs Metropolitan Dade County ruled that the 1970 assessment roll is not equitable and uniform as demanded in the statutes. These inequities remain imbedded in the 1971 tax roll.
2. The reported sales prices of Real Property in Dade County indicate a substantial variance between the sales prices and the assessments.

THE ASSESSOR'S INABILITY TO PRODUCE A UNIFORM AND EQUITABLE ROLL IS DUE LARGELY TO THE FOLLOWING:

1. An insufficient number of professionally trained personnel.
2. Failure to fully follow legislative mandates as set forth under Article VII, Section 4 of the Constitution of the State of Florida and Section 193.011, Florida Statutes 1970.
3. Failure to physically inspect sufficient numbers of properties in all categories makes present records incomplete and inaccurate.
4. Too great a reliance on "Bricks and Mortar" method of assessment and too little on market indicators.
5. Failure to achieve the capability within the department to properly develop and apply Market Criteria.

Other areas of concern that came to our attention during our investigation were:

1. A frequently inflexible attitude and policy with regard to handling taxpayer complaints results in an unwarranted expenditure of time and expense by the taxpayer and the County in seeking relief at both the administrative level and in the Courts.
2. There is little evidence that the Assessor's methods have basically changed since the advent of: (A) Florida Statute 193.011 which spells out the eight (8) factors which the Legislature requested the Assessor to follow, and (B) the Florida Supreme Court Case of Walter vs Schuler.

3. Failure to establish a continuing program to advance the education of the existing staff.

4. There will be a continuation of the present inequities if the information from the present inaccurate data is converted into the planned computerized tax assessment system.

WE ARE OF THE OPINION THAT THE ONLY WAY AN EQUALIZED TAX ROLL CAN BE ACHIEVED IS TO IMMEDIATELY IMPLEMENT THE FOLLOWING:

1. The present Tax Roll must be completely reassessed, as quickly as possible, recognizing that this is a two to three year program. Such program must include a complete reinspection of all improved properties.

2. A reassessment program must be instituted immediately using the consulting services of an objective organization such as The International Association of Assessing Officers.

3. The Assessor should employ all eight (8) factors in Section 193.011 of the Florida Statutes before establishing final assessments, where applicable.

4. In order to implement the reassessment program, qualified local real estate consultants and appraisers should also be utilized, but in no event should the consultants' function be permitted to overcome the ultimate responsibility of the Tax Assessor for the final Tax Roll.

5. No information should be fed into the computer until the property is reassessed and the new assessment complies with all appropriate criteria.

6. A definite and continuing program should be instituted as quickly as possible to train and educate the staff.

The County Commission is urged to continue to provide the funds necessary to bring into being an equitable and uniform Tax Roll."

END OF 1971 SPRING TERM GRAND JURY REPORT

CONTINUATION OF OUR REPORT:

Following are excerpts from the "Order of Final Judgment, Case No. 70-17044-(Lee)" which prompted the 1971 Spring Term Grand Jury Report:

"The use of a uniform multiplier or fixed percentage factor in the preparation of the assessment roll is not an acceptable assessment practice and should not be employed."

"It must be concluded that the 1970 assessment roll is not equitable and uniform as demanded by Article VII, Section 4 of the Constitution of the State of Florida and Section 193.011, Florida Statutes 1970. The testimony indicated that the ratio of assessment value to fair market value for single family residences varied from one subdivision to another of from 66.5% to 89.9% and condominium apartments varied from location to location of from 84.4% to 102.5%. A similar variance in rental properties occurred of from 70.8% to 97.5%."

"It is manifestly impossible to properly apply any uniform multiplier or percentage factor to the existing base roll in an effort to produce "fair market value" assessments because such procedure can only compound and exaggerate any prior existing variances."

"The evidence indicates that there has been too little use of market sales and surveys with a view to adjusting the inequities which were compounded by the use of the fixed multiplier."

"What is obviously needed is an adequate, complete and systematic reappraisal of all properties within the county in order to produce a tax roll that correctly reflects "fair market value" for all concerned. Such a reappraisal may require several years to complete, nevertheless, the law demands and the taxpayers are entitled to a tax assessment roll which is uniform and equitable in all respects."

"That the Court declares that the use of a uniform multiplier or fixed percentage factor in the preparation of an assessment roll is not an acceptable practice under the laws of Florida and should not be employed."

FURTHER CONCLUSIONS OF THIS GRAND JURY

Our Investigation has revealed the following:

1. The 1975 through 1977 tax rolls contained substantial inequities. In those years field men were ordered to go out and inspect property, which had been sold at a price substantially higher than the assessment on the property, and to arbitrarily bring the assessment up to 70% of the sales price. When the field men asked their superiors what they were to do with the neighbors' property or comparables, they were ordered to raise the property subject to recent sale only and not to discuss the method of assessing with the taxpayer, even if he specifically inquired. They were told that if they revealed the 70% appraisal technique to the taxpayer "they would be fired."

2. This "Spot Assessing" where sales are routinely raised to 70% without any apparent raising or lowering of comparable (neighboring) properties raises serious questions as to the validity of the entire tax roll.

Further implications of "Spot Assessing" are that it destroys the value of the assessment records. Records are kept as to additions, etc., and evaluated by grade points. Increasing quality points to correspond to sales price forever ruins the basic factuality of the record card. Later when an across the board increase is made in building values the error is compounded. If the land division reviews a fully developed subdivision and computes the land value based on a land residual (sales minus building improvements), the errors in spot assessing are continued and compounded. We believe all spot assessments must be deleted from the roll. Spot assessing places a limitation on the Florida Department of Revenue's ability to properly evaluate the tax roll. This results in a misleading, but favorable ratio for Dade County. Even if spot assessing is stopped the damage has been done and the entire roll must be made "equal."

3. The Department of Revenue apparently only checks certain random sales to ascertain its decision on certifying the tax roll. This apparently is done after the "Spot Assessment" as ordered by the Property Appraiser.

4. We have voluminous testimony to the effect that anyone who purchased a residence in the years of 1975, 1976 and 1977 is more than likely paying more in taxes than their neighbors or comparable properties.

5. Other circumstances trigger spot assessing such as, newspaper articles, publicity as to residences being for sale, sales promotions, etc.

6. This Grand Jury is concerned about the attitude of those in authority at the county and state level who use the excuses that "no roll can be perfect" and "compared with other counties, problems in Dade are minimal." Our concern is having our tax roll

and procedures in conformity with the intent of the law. Although the Grand Jury recognizes that conditions are not identical in Dade and Broward, serious doubts are raised by such questions as: Why does Broward County have only 114 employees in their tax department with approximately 450,000 parcels whereas Dade has over 300 employees with only approximately 500,000 parcels to assess? Why does Broward proportionately have fewer complaints? Why do other counties, in Florida, handle their taxpayers' complaints in a different manner from Dade when supposedly the same law is being followed by all counties? Why is it that often the intent of the law is ignored while the Tax Adjustment Board relies upon technicalities to the detriment of the taxpayer?

7. Improperly and inadequately advertised organizational meetings of the Property Appraisal Adjustment Board are designed to keep objectors away. There is no public debate on the way the system should operate. There is a complete lack of concern about advising the taxpayer of procedures used. For example, taxpayers are not told that authority exists to hear their cases when filed late if extenuating circumstances exist.

8. Field appraisers must be instructed not to "work backwards from the sale price" as is the present procedure in arriving at their appraisals. The entire mechanical system of appraisals must be overhauled. Present training methods are inadequate. Manuals and guidelines are not being followed as prescribed by law. Both Dade County and the State lack qualified personnel for this technical work.

9. Testimony reveals that the reason Broward County has fewer problems and employees, 114 compared to 300, is because Broward has a tremendous advantage over Dade in that Broward had a "base" set by

an outside firm years ago. It was never officially adopted but the assessor utilized the information gathered which provided the correct "base."

10. Special Masters serve a good purpose. However, we are concerned that the Property Appraisal Department, contrary to the Fall Term 1976 Grand Jury recommendations, continues to influence the selection of the Special Masters. Testimony before the Jury indicated that Special Masters tended to "favor" the system in order to retain their appointments.

11. Hearings with the Special Masters are overly weighted against the taxpayer to the extent of being called "Kangaroo Courts" by qualified attorneys who have attended them.

12. The Property Appraisal Adjustment Board makes blanket approvals of Special Master findings without any individual attention to specific cases, thus denying the taxpayer a fair hearing before proper authorities as recommended by law.

13. Had the Property Appraisal Department and the Property Appraisal Adjustment Board complied with the spirit and intent of the law, and had citizen input been evaluated, we would have a superior tax roll. Instead, we have a tax roll that is neither uniform nor equitable and a tax appeal process which is a mechanical action, aloof and arrogant.

THE JUVENILE JUSTICE SYSTEM

Often expressed complaints about the juvenile justice system in Dade County prompted an investigation by this Grand Jury. One specific charge made was that the State agency responsible for protecting the community from hardened juvenile criminals was, in effect, slapping them on the wrist and turning them loose, instead of jailing them for appropriate lengths of time.

In investigating this and other complaints, the Grand Jury found that the shortcomings of the system are easy to point out, but realistic solutions remain elusive for this community, the State and in fact the Nation.

This Grand Jury listened to the views of 22 witnesses representing the judiciary, the State's social service bureaucracy, police, prosecutors, the school system, County government, and the Legislature. Thousands of pages of reports, audits and related materials were also considered. As a result of this effort, the Grand Jury concludes that the most important part of the criminal justice system is that portion which deals with the juvenile offender. It is here that the youthful offender first comes in contact with "the system," and it is at this stage that future patterns of conduct are usually determined. Whether the youngster will be a useful citizen or a future crime statistic hangs in the balance with society and its "system" having the opportunity to influence that outcome. Despite its critical role the juvenile justice system is the least understood and the most likely to suffer benign neglect at the hands of the community.

THE DEPARTMENT OF HEALTH AND REHABILITATIVE SERVICES (HRS) AND THE DIVISION OF YOUTH SERVICES (DYS)

Most often the focal point of criticisms lodged against the juvenile justice system is Florida's Division of Youth Services. This is understandable in view of the major role that it plays in the system. While some of the criticism is justified, it needs to be pointed out that the State of Florida has come a long way in the last decade with respect to youthful offender procedures, programs and facilities. We believe this is a result of a greater sensitivity to social issues on the part of our citizens and their elected officials, as well as the increased professionalism of personnel administering the programs.

The Division of Youth Services (DYS) is but one of eight program divisions within the State of Florida's Department of Health and Rehabilitative Services (HRS). In 1975 HRS was ordered to accomplish an internal reorganization by the State Legislature. The new organizational structure reassigned the functions of a number of existing divisions and bureaus and vested them in eight programs. They are Social and Economic Services, Retardation, Vocational Rehabilitation, Aging and Adult Services, Mental Health, Children's Medical Services, Health and Youth Services. These programs are administered within eleven geographical districts, with Dade and Monroe Counties comprising District XI. There are four Service Networks within District XI, and these networks serve smaller geographical or neighborhood areas. Certain administrative and program planning activities remain the responsibility of HRS headquarters in Tallahassee. Prior to 1975, the categorical divisions operated on vertical lines with varying degrees of autonomy, political support, and little cooperation with sister agencies. The main objective of reorganization, to the contrary, is to decentralize and integrate the delivery of services

for multi-problem clients on a local level.

The State Auditor General was not impressed with departmental results through June 1977: "The Department's failure to formulate plans prior to the implementation of the reorganization has resulted in a fragmented organizational structure; a lack of policies, procedures and guidelines; and a loss of control over personnel and financial accounting systems." The Secretary of HRS acknowledged most of the audit findings, but countered that the department "had to plan and carry out reorganization almost simultaneously. The steps of devising policies, preparing procedures, transferring functions, arranging for space, moving people, training staff and initiating new operations have followed too closely on the levels of one another." With several exceptions, the consensus of testimony offered the Grand Jury was that the reorganizational process, as it relates to DYS in Dade County, is in the "shakedown" stage, and that with time the concept would be proved feasible.

Significantly, an in-depth report recently issued by a panel of the National Academy of Public Administration (NAPA) concluded that "Florida should persevere with integrating and improving services," and that "special measures are needed to complete the consolidation of administrative services..." It stated that "the HRS experiment places Florida in the forefront of the nation's many efforts to achieve integrated, client-centered services."

The District XI Administrator appears to have ample managerial credentials, but his executive responsibilities covering the eight programs listed above, approximately 3,200 employees, and operational funds and welfare payments totalling some $310,000,000 make it impossible for him to be adequately informed and responsive to the problems experienced within DYS. Moreover, the few management levels beneath

him, namely the Service Network Managers and the Direct Service Supervisors, also have responsibilities that embrace all the eight programs and human services offered. The Unit Supervisors for units within a given network such as single intake, food stamps, vocational rehabilitation, etc., are the closest levels to the District Administrator who have operational or line authority for specific programs.

This organizational setup does not lend itself to an early detection and monitoring of problem areas. As one witness said, "The structure is so segmentized, that nobody has to live with a problem... nobody's in charge of anything..." The Grand Jury is hesitant to offer precise recommendations about managerial realignment that might thwart the very purpose of reorganization. We do believe, however, that common sense calls for an individual in a high level position who has the necessary authority and accountability to deal with the functions of so large and important a program division as Youth Services in a metropolitan area like Dade County.

Proof of the inadequacy of the present chain of command was found in the recent Youth Hall crisis. It was apparently necessary for a Juvenile Judge to appoint a management rather than an advisory committee in October to recommend and oversee operational improvements at the Detention Center located in the new Juvenile Justice Complex on Northwest 27th Avenue. Under this type of pressure, HRS officials have marshalled resources locally and from Tallahassee and have applied considerable talent, energy, and even innovative remedies to the problems at hand. Much progress appears to have been made during the past three months. Whether court-appointed management committees are solutions in themselves, or whether they could take the form of "draconian measures" under the wrong type of

judge, are issues left for other bodies to resolve. The point this Jury wishes to make is that normal channels had to be bypassed and concerted attention had to be applied by nearly all of HRS top management to a specific segment of the total HRS operation. It is hoped that District XI will profit from this Youth Hall experience and realign its management structure in order to be able to better address the demands and problems found within this large organization.

The Grand Jury found most of the personnel working within the system to be qualified, hard-working and dedicated, though often frustrated by overwhelming demands, inconsistencies, lack of resources, and the complexities of the system they serve. It was clear from testimony and accompanying reports that a number of key components in the reorganization design are not yet in place, which in turn contributes to the diminished effectiveness of the Department. A major goal of reorganization was to computerize the information system and establish case management procedures and a common intake to cut across program lines. It is in the best interest of the citizens of Florida for these goals to be met as quickly as possible.

RECOMMENDATIONS

1. The Legislature should honestly assess the demonstrated personnel needs of the Department and appropriate sufficient funds to meet them.

2. The Grand Jury recognizes that an organization such as HRS must be computerized in order to provide proper services to the public in this day and age. If this task is not accomplished by the next session of the Legislature, the public is entitled to an explanation of where the responsibility lies - with the Legislature or with HRS.

3. The Grand Jury recommends a revision in the management structure of HRS below the level of District Administrator in order to assure accountability and better utilization of existing resources.

4. The Department should redesign its resource allocation formulas in order to provide counties like Dade the number of positions and facilities that their client volumes warrant.

5. The State Department of Administration (DOA) should become more responsive to the special needs of HRS and should define areas where district administrators could exercise discretionary authority and shift resources from one budget category to another. In other words, DOA should assist HRS in performing its job - not hinder it.

SINGLE INTAKE

The role of intake is described in the NAPA report as follows: "The new system is to provide 24 hour service and handle all complaints of delinquency, dependency, or ungovernability involving children and youth under 18. Single intake workers must evaluate every complaint, rank them by priority, respond promptly to crises, arrange emergency and long-term placements in homes or detention centers, assess the child's needs, develop a treatment plan for the court or implement a court-ordered plan and take the responsibility for seeing that each case is disposed of satisfactorily."

Under the HRS reorganization, the single intake system combined previously separate programs for delinquent and dependent juveniles. Single intake was first implemented in Dade County in March 1977. The change resulted in caseworker confusion, frustration and numerous resignations.

A "bottleneck" in the delinquency cases being processed for court action immediately occurred. The Intake section of DYS was

unable to meet its deadlines with regard to time restrictions imposed by the speedy trial rule. This rule provides 15 days for Intake to determine which cases will be referred to the State Attorney's Office for prosecution, 15 days for the State Attorney's Office to file cases with the Juvenile Court and 60 days for the court to make an adjudication. The number of unprocessed and therefore dropped cases reached "epidemic proportions," according to one witness, and resulted in the threat of a court order citing the District Administrator with contempt unless and until the situation was rectified. In an effort to shore up the system, field counselors were assigned to Intake and workers from other parts of the State were brought in temporarily to relieve conditions. The backlog was eventually eliminated.

However, there next appeared a marked drop in the quality of screening. Witnesses testified that so-called "trivia" cases like curfew violations were being recommended for judicial action. Indiscriminate screening contributed to the overpopulation at Youth Hall when alternatives to detention could have been utilized. On the other hand, there were some instances where non-judicial treatment plans were recommended for youngsters involved in serious crimes. Screening procedures have been under review recently as a result of the court-appointed Management Committee's concern with the overpopulation at Youth Hall; the results of the review remain to be seen.

We heard from the Director of Security for the public schools system and from a representative of the Public Safety Department concerning communication problems about youngsters referred to Intake. As stated by the security officer, the absence of feedback from DYS causes serious problems when a crime is committed off school grounds. The next day the student may be back in school, but the teacher and guidance personnel have no knowledge of what has taken place. The

child is apt to react in any number of ways due to the stress of having been arrested, but the school is hindered in its response because of lack of information.

The police officer testified that the lack of communication mainly concerned child abuse cases. The police complain that Intake in the past has been reluctant to promptly advise them of child abuse incidents in order that the police could act if necessary to protect the child. The problem apparently has now been resolved, although it took an Attorney General's opinion to do it.

RECOMMENDATIONS

1. The Grand Jury does not recommend a weakening of the stringent time limitations presently imposed on the juvenile justice system under the speedy trial rule.

2. The Grand Jury recommends that continued vigilance be exercised with regard to screening procedures. The appropriateness of all referral decisions should be closely monitored by Intake supervisors.

3. Although we understand that periodic conferences take place among Intake supervisors, State Attorney and Public Defender personnel and the Juvenile Judges, we believe that more attention must be given to defining screening objectives and referral criteria that are reasonably acceptable to all parties.

YOUTH HALL

For years numerous Grand Juries complained about overcrowding, mismanagement and abuses at the old County-run Youth Hall. Public outrage which occurred from time to time was quickly spent and did not have any lasting effect. Conditions in general remained poor and could be expected to go from poor to dreadful with regularity.

The new Juvenile Justice Complex built by the County, but administered by the State, was viewed as a significant step in improving the treatment and physical environment of juvenile offenders awaiting trial.

The community quickly learned, however, that a new facility did not solve the old problems. It can be argued that it only added new problems. First, the detention facility had numerous defects in it when the contractor turned it over to the County, which then turned it over to the State. For almost a year neither the County nor the State could get the contractor to correct the many physical defects. The Grand Jury found that the County acted in a negligent fashion during the contractor's one year warranty period commencing September 1976, and that the contractor's work was often shoddy.

In addition, the population of the new detention center was permitted to soar well beyond the capacity of the undermanned child care worker staff to handle. The results were predictable. Numerous escapes and inmate assaults, including at least one sexual attack, plagued the institution.

No effective action was taken to correct these problems until the news media created a public outcry and the Public Defender sued to close the detention facility. Since then, under the guidance of the court-appointed Management Committee, conditions at Youth Hall have apparently dramatically improved. The Grand Jury commends these improvements and hopes that contrary to past experience the improvements remain permanent.

RECOMMENDATIONS

1. Conditions such as recently existed at Youth Hall and which have existed in the former Youth Hall must not be allowed to reoccur. Permanent mechanisms must be established by the Department for monitoring and correcting problems as they occur

and before they get out of hand. We urge that all the resources that have been brought to bear during this critical period not be diminished when Youth Hall is no longer a subject for the attention of the news media.

2. The Legislature must assume its responsibility with regard to Youth Hall by providing for an adequate number of child care worker and supportive staff positions.

COMMUNITY-BASED PROGRAMS AND FACILITIES

Built into the juvenile justice system are alternatives to detention and judicial action. In addition to releasing a child to the custody of his parents or guardian, placement can also be made in one of several local programs or facilities (for example, a drug rehabilitation agency, youth streetworker project, crisis intervention center, group treatment home, etc.), or to surveillance and counseling by a field worker. This diversion may occur at several points throughout the process. Those responsible for making the decisions which divert youngsters from the justice system have as their resources a few State-funded and operated projects and facilities, several County and Federally-funded programs and a number of private agencies.

The County government has developed institutional, group and other community programs for youth during the past two decades because the need for such resources far exceeded the State's ability to provide them. While the State in recent years has shown a recognition of the need for diversified programs and has assumed the funding and operation of certain former County programs and facilities (for example, Kendall Children's Home and Youth Hall), the County continues to offer social and psychological services in

neighborhood "outreach centers" maintained by its Youth Services Department. The services are mainly preventative in nature and are intended to help avert or reduce family breakdowns and to serve as alternatives to juvenile court action. The Alpha House for youngsters with severe behavioral problems, group and foster homes, and a psychological diagnostic clinic are also operated by the Youth Services Department. The County operates other youth-related programs and services through the Human Resources Department (health clinics, teen employment, tutoring, recreation and cultural enrichment programs, drug rehabilitation agencies and the Juvenile Court Mental Health Clinic), the Office of Community Development Coordination (crime prevention programs in seven communities and a demonstration child abuse treatment project), the Community Action Agency (the Foster Grandparent program), and the Criminal Justice Planning Unit.

The Criminal Justice Planning Unit (CJPU) has the monitoring responsibility for several Federally-funded demonstration projects including counseling and educational services to Spanish-speaking youngsters, a 24-hour crisis intervention center, a Big Brother/Sister program, and an extended care center for youngsters released from State training schools. Written information submitted to this Jury indicates that two approved and funded projects, a police-administered program to be geared towards truants and school drop-outs, and a wilderness survival course for disadvantaged youth, have had trouble becoming operational. A project sponsored jointly by the CJPU and the State Mental Health Board will enable purchase of short-term residential care for emotionally-disturbed youngsters presently detained at Youth Hall. The CJPU is additionally charged with providing liaison, training, research and task force services

to the several State, County and private agencies involved in the juvenile justice system.

The Grand Jury heard testimony to the effect that the County programs are structured departmentally and managerially in as complex a manner as the HRS programs. The extent and availability of County resources was not that apparent to at least one member of the judiciary. These comments suggest that better liaison is needed between County, State and court officials.

The County Manager testified that he anticipates establishing in his office a team of special auditors to conduct management audits of Federally-funded programs. These would be in addition to the financial audits that are routinely performed. Considering the million of dollars and projects involved and the recently publicized findings of certain CETA/Manpower programs, a well staffed and qualified audit team should prove an important, effective measure.

The constraints of time and other priorities prevented this Jury from making an adequate investigation of the community resource aspect of the system. We were able to determine, however, that such resources are minimal at best and that Dade County does not have its fair share of half-way houses and facilities for the retarded or severe emotionally disturbed. There is a need for additional foster homes, programs for school dropouts, and more outdoor programs similar to the State-operated Dade Marine Institute, where the recidivism rate is relatively low. While many of the programs that do exist in Dade County look good on paper, we learned that most of them do not want to deal with excessively difficult youngsters. There is insufficient effort made to measure the effectiveness of programs by following up the youngsters who have "graduated" or otherwise left the

programs. We found overly ambitious goals, non-coordination of information and services with other agencies, and financial and programatic audits which are usually primitive if in existence at all.

The foregoing list of deficiencies is aimed at the state-of-the-art itself, rather than intended to disparage the generally hard-working and devoted operators of these programs and agencies. Perhaps, it may be that we have unrealistic expectations of the system's ability to rehabilitate.

RECOMMENDATIONS

1. The Grand Jury recommends that State and County officials give special attention to those deficiencies identified by the Criminal Justice Planning Unit in the juvenile portion of its 1978 Comprehensive Criminal Justice Plan. The Plan should not be permitted to gather dust, but should instead result in a systematic program of action to be adopted by our elected officials and implemented through the necessary appropriations.

2. The Jury further recommends that the County Manager consider strengthening the role of the CJPU in order that it be in a better position to advise on problems of funding priorities, performance standards and coordination among the several County departments involved with services to youth.

3. We believe that management audits by the County Manager's Office of Federally-funded projects including youth-related programs would serve a useful purpose. This Grand Jury suggests that the 1977 Fall Term Grand Jury pursue this further.

JUVENILE COURT

Testimony taken by the Grand Jury from judges and others confirms that there is a wide range of juvenile crime. Not all juvenile offenses are serious crimes; in fact most offenses are not serious crimes. The public may lose sight of this fact when it is exposed to media accounts of the sensational cases. The juvenile justice system seeks to work with the majority of youthful offenders and their families, attempting to provide adequate treatment and supervision so that their patterns of crime do not continue and intensify. These objectives should be encouraged.

There is a type of juvenile crime that remains a severe problem in Dade County. Several heinous capital cases presented before our Grand Jury involved defendants who were only 15 or 16 years old. The juvenile justice system is clearly ill-equipped to deal with "hard-core" offenders or with certain crimes. What is the answer for those youngsters for whom the juvenile system offers inadequate remedies and yet whom society is not ready to "write off" by treating them as adult criminals?

At present the only option available to the Juvenile Court is a bindover, or waiver of jurisdiction to the adult system of the Circuit Court. The bindover procedure is reserved for those youngsters and situations with which the juvenile system is unable to cope. The Grand Jury is aware of criticism by some who contend it is used too frequently and by others who say it is not used often enough. We believe that the bindover procedure is being used prudently. The seriousness of the crime must be given weight along with the nature of the offender, his police record and background. Youngsters bound over to the adult system should not remain at Youth

Hall until trial, but should be transferred immediately to the County Jail or the new Women's Detention Center. Such youngsters should be afforded special security and supervision arrangements at these County facilities.

RECOMMENDATIONS

1. The Grand Jury recommends passage by the Florida Legislature of a Youthful Offender Act, which would establish a middle ground between the juvenile and adult offender. Such legislation would allow juvenile court judges discretion in sentencing, so that certain young people between the ages of say 16 and 24 could be treated in specialized institutions where there would be greater emphasis on vocational training and long-term rehabilitation.

2. Formal training courses for Assistant State Attorneys, Assistant Public Defenders and judges newly assigned to the Juvenile Court should be instituted, as well as in-service training for court clerical personnel.

3. The Court and the Department of HRS are encouraged to design and establish work-restitution projects for juvenile offenders.

STATE TRAINING SCHOOLS

Testimony received from several sources provided the Grand Jury with a disturbing view of Florida's training schools. Among the criticisms made were the following:

1. State training schools do not have the capability through either adequate staff or appropriate programs to effect the rehabilitation of the juvenile offender. The number of staff with training in social work or psychology is shockingly low and psychiatric

services are almost nonexistent.

2. State training schools, according to HRS data, cost more than any other rehabilitation program on a per person per day basis ($34.35 per child), but have the highest recidivism rate (49%). It can be argued with some justification that the recidivism rate is high because training schools are the remedy of last resort for the "hard-core." HRS does have a number of specialized correctional programs operating in smaller facilities with more intensive treatment. These facilities are less expensive to operate than are State training schools on a per capita basis.

3. State training schools when overcrowded result in early furloughs in order to accommodate the steady flow of new inmates. While early testimony pointed to overcrowded conditions, a later witness from the Youth Services Program Office in Tallahassee testified that population problems have abated.

4. The earned point system on which release or furlough decisions are based does not seem appropriate in many cases. All too often State schools return offenders to the community before they are ready. Under State law a juvenile offender may remain at State school until age 21. However, the average length of stay is five months. Decisions to release now rest with the training school superintendents and their staffs. There are many who feel that the committing judge should have more authority in release decisions. Others doubt that this is a satisfactory solution. Since a judge no longer has contact with an offender once he is committed, the judge is not in a position to vouch for the readiness of the individual to return to his community. In general, this is not an authority that judges seek, nor a responsibility they wish to assume. Under present HRS policy a juvenile court

judge may, on request, receive prior notification of release and submit his own recommendation, but there is little evidence that such recommendations carry any weight.

5. State schools are not geared to handle the problems of a large segment of the offender population, namely, those children who are severely emotionally disturbed or functionally retarded.

RECOMMENDATIONS

1. The Legislature must assure that State training schools are staffed with qualified personnel in sufficient numbers to effectively address the problems of short-term rehabilitation.

2. If additional training schools are constructed in Florida, consideration should be given to a South Florida location. Dade County citizens have objected strenuously whenever proposals are made to locate mental hospitals or correctional facilities in this community. This represents a short-sighted and selfish attitude in view of the fact that Dade contributes large numbers of patients and inmates to these institutions. The Grand Jury feels that the resources available in a metropolitan area such as Dade could have positive impact on programs within such institutions and would also serve to improve plans for "aftercare" programs. Placing training schools near the communities to which offenders will return makes sense for a number of reasons including the support inmates may receive from close proximity to their families.

3. The Legislature and the citizens of Florida need to consider alternatives to training schools within local communities, such as half-way houses, small residential treatment centers for the emotionally disturbed and specially designed programs for the delinquent retarded. There must be a public turning away from

policies that encourage institutions that cost the most and produce the fewest results.

4. Procedures governing furloughs or release of juvenile offenders from correctional institutions should be revised in at least two areas: (a) The point system needs to be reevaluated. (b) The Department should consider alternatives to release decisions resting solely with superintendents of the institutions. Review by an independent body similar to a parole board, at least in capital cases and with those committed on a repeated basis, is one alternative.

SUPPORT FROM THE COMMUNITY

It is difficult to avoid cliches in this instance. The Jury nevertheless feels compelled to point out that there are other parties involved in the total juvenile justice system, none of whom appear to be contributing in adequate fashion. Parents must do their utmost to preserve and nurture the family unit! The County school system should design programs better suited to meet the special needs of students who are predictable dropouts. The churches and synogogues should extend their activities and objectives to include delinquent and pre-delinquent youngsters. The United Way should become more involved with treatment facilities, and could help significantly by sponsoring a formal volunteer services program made up of professionals including physicians, dentists, optometrists, attorneys, etc. Dade's several colleges and universities should contribute by providing additional training and research resources and by encouraging student involvement and internships. Civic clubs should sponsor projects similar to the Child Abuse

Project conducted by a local women's club. Firms in the private sector should do more soul-searching when the question of summer jobs arises. The news media should continue to disclose shortcomings in the juvenile justice system relentlessly, but they should strive to achieve greater fairness in presentation of a usually complex picture.

The Dade Delegation to the State Legislature must take a strong and unified posture with regard to unmet needs for Dade's youth. The Delegation should focus its attention on the following areas of concern. The caseloads of DYS field counselors must be substantially lowered in order for their efforts to be effective, and Youth Hall must be adequately staffed and provided with the necessary medical services. HRS pay scales should be brought to parity with other governmental and private social agencies in order to attract and keep qualified individuals. The State Department of Administration should grant more flexible budgeting, purchasing and personnel transfer authority at the District level. A computerized common intake and case management system should receive priority implementation.

Dade County does not have enough half-way houses, mental health facilities, or programs for emotionally-disturbed youngsters. The Grand Jury makes this statement categorically, since it was confirmed repeatedly by witnesses from every sector of the juvenile justice system.

The President's Commission on Law Enforcement and Administration of Justice summarized its report in 1967 as follows:

> "The Commission finds, first, that America must translate its well-founded alarm about crime into

social action that will prevent crime...
(that will) alleviate the conditions that stimulate it...

The Commission finds, second, that America must translate its alarm about crime into action that will give the criminal justice system the wherewithal to do the job it is charged with doing. Every part of the system is under-nourished...

The Commission finds, third, that the officials of the criminal justice system itself must stop operating, as all too many do, by tradition or by rote...

...They must be bold..."

AUTOMOBILE INSURANCE RATES

PART I - INTRODUCTION AND SUMMARY

One of the most pressing economic problems facing Dade County's citizens when this Grand Jury commenced its duties was the spiraling cost of automobile insurance.

Confiscatory insurance rates are a problem in urban areas throughout the nation but Dade County is hit especially hard since its sprawling area and marginal public transportation system make the private automobile a basic necessity.

Common sense, self-preservation and concern for one's fellow citizen demand that the operator of an automobile be prepared to compensate for any accidental damage or injury he might cause. In the past the most acceptable way to accomplish this has been through insurance. The ability of the average citizen to afford such insurance in the foreseeable future is extremely doubtful.

The importance of the problem made it appropriate for this body which is empowered to investigate not only crime but also matters pertaining to the safety and general welfare of the community to look at the situation, the reasons for it and consider possible solutions.

In undertaking the task the Grand Jury recognized the tremendous scope and complexities of the insurance crises. We also recognized that many other governmental institutions and agencies are hard at work and making progress in such important aspects of the problem as insurance fraud and comparison of the tort with no-fault systems.

We decided to limit this inquiry to the seemingly narrow issue of whether the prices (premiums) being charged motorists in Florida, especially in Dade County and the other urban areas, for private passenger automobile liability insurance were reasonable and justified. In seeking the answers the Jury has heard the testimony of witnesses representing the insurance companies, insurance agents, rate making and statistical agencies, consumer interests, the Legislature, the Insurance Department and academic experts. We have also reviewed thousands of pages of studies, statistics, reports, audits and rate filings. We did not limit our inquiry to Florida but included information from the federal government, Massachusetts, North Carolina, New Jersey, Maryland, Oregon and California.

Despite the narrow scope of the investigation a fair presentation of the issues still involves considerable detail. Therefore, this section of our Final Report has been divided as follows:

This first part contains the introduction and a summary of the investigation including the Jury's conclusions and recommendations. Part II deals with general problems in determining the fair premium each motorist should pay, including driver classification, redlining and territorial classification, surcharging and expense loading practices. Part III looks at the Florida Joint Underwriting Association (FJUA), the second largest automobile insurer in the State. Part IV deals with the Florida Insurance Department and the office of Insurance Commissioner.

As a result of this investigation, the Grand Jury concludes in general:

1. Many motorists are presently paying insurance rates which are neither reasonable nor justifiable in view of their driving record and the actual risk they represent.

2. Those most likely to be overcharged are those least able to afford it and this includes motorists who happen to reside in urban areas, the young, the poor and members of minority groups. Those most likely to be undercharged because of the quirks of the system are those most able to pay their fair share.

3. Motorists unfortunate enough to find themselves in a "high risk" category are systematically overcharged. The problem is compounded by the insurance companies' practice of multiplying one inequity by another with staggering results. Even minor injustices in the rate setting processes are ultimately magnified into major inequities for many motorists.

4. This situation has occurred not because insurance companies are "bad" per se or have conspired against the public interest even though many of the company practices do make it appear they are grossly indifferent to the public interest. It must be kept in mind that they are private enterprise in business to make a profit. Very often what is a good business practice in terms of profitability is not necessarily in the general public interest.

Insurance companies must collect sufficient income (premiums) to at least pay for the claims made against their customers and cover their business expenses. While the insurance industry appears to be highly regulated this Jury has found that in Florida the companies are given a virtual free hand in deciding how this money is raised. This free hand results in arbitrary and unfair charging practices by the companies.

5. The most important cause of these conditions existing in Florida and Dade County is the State's inability to effectively regulate the insurance industry. In the past a serious question

could be raised as to the willingness of the State and its Insurance Department to do so. Bill Gunter, who has been Insurance Commissioner for only the past year, has shown his willingness to regulate the insurance companies for the benefit of all citizens. Even assuming Commissioner Gunter's present encouraging attitude continues, the ability of the Insurance Department he inherited to effectively regulate the powerful and sophisticated insurance industry is open to serious question. Some glaring deficiencies are the Department's shortage of competent personnel and almost total lack of computer capacity.

6. There are many serious problems confronting this state in the area of automobile insurance and it is doubtful that legitimate answers and solutions can be obtained until an effective Insurance Department is created. An example is the Florida Joint Underwriting Association (FJUA), a structure created to succeed the Assigned Risk Plan. While it appears to be an improvement over the assigned risk program serious problems loom for the motorist it is serving. Most observers agree that the FJUA has weak and ineffective management and is allegedly incurring frightening financial losses on paper which presumably will have to be dealt with soon.

As a result of these and the other conclusions set forth in this report, the Grand Jury recommends:

1. Insurance companies should be prohibited by law from using sex, age or marital status as a classification in determining the premiums to be charged an individual motorist. Driver classifications should be restricted to the following:

A. Drivers with less than three years of driving experience.

B. Drivers with more than three years of driving experience.

C. Business Use.

D. Annual mileage driven if it can be accurately verified.

2. Any company desiring to use additional classifications should be required to demonstrate their validity and fairness to the Insurance Deparment before using.

3. The Insurance Commissioner should immediately require every insurance company doing business in Florida to do so in every area of the State. He should prohibit redlining of any county, city or neighborhood. If the courts rule that the Commissioner does not have the power to do this as the Commissioner claims, the Legislature should immediately give it to him.

4. The Insurance Department should institute an immediate study in order to determine the effect of eliminating geographical location as a factor in establishing insurance rates.

5. The Insurance Commissioner should immediately require all companies to obey the law regarding surcharges. If the companies can't produce proof of a direct, demonstrable and objective relationship between the event giving rise to the surcharge (such as a moving traffic violation) and the increased risk of loss to the company as the law requires, the particular surcharge practice should immediately cease.

6. The Commissioner should immediately order all companies to stop the practice of surcharging on percentage of premium basis.

7. The Insurance Commissioner should immediately order all insurance companies doing business in the State of Florida to cease calculating expense loading as a percentage of premium.

Company expenses should be pro-rated as a fixed dollar amount against all policies issued. If any company expenses can be proven to vary by location, allowance should be made therefor.

8. Agents' commissions should be based on a fixed amount per policy issued, which would be a flat dollar amount statewide, plus a nominal percentage of the premium to cover differential cost of agents doing business in various parts of the State.

9. The Insurance Department should conduct an immediate in-depth review of the actuarial techniques employed by every automobile insurance company in the State to determine not only whether the figures they submit add up but also whether the techniques the companies employ do justice and equity to each of their policyholders.

10. If the Department does not have the capacity to do so, the Commissioner should go to the Legislature or if necessary the public to get it.

11. The Insurance Commissioner should continue to deny FJUA rate increase requests until it is demonstrated that the fat, waste and inequities in the present rate structure are corrected.

12. The Commissioner and the Insurance Department must monitor the FJUA operation on a much closer basis and be prepared to take a far more active role to insure that facility is being operated for the benefit of the public and not just the insurance companies.

13. The FJUA should be the insurance facility of last resort. Only those drivers who have demonstrated by their driving record that they are undesirable risks should be placed with the facility. The companies should not be permitted to use it as a dumping ground to enable them to engage in redlining and other actions contrary to the public interest.

14. The Insurance Department should immediately study alternative means of handling the substandard insurance market, including a reinsurance facility in which the rates would be the same as any participating company's voluntary market. The system which best serves the public interest is the one that ought to be placed in use in this State, regardless of the preferences of the insurance companies.

15. The Jury recommends that the Legislature appropriate the necessary funds to upgrade the State Insurance Department to a posture where it is fully capable of dealing with the many complexities of the automobile insurance industry.

16. The Jury strongly recommends that the Insurance Commissioner conduct a nationwide search, if necessary, for skilled professional actuaries and statisticians familiar with industry practices and methodologies, and that he augment his staff of accountants, auditors and field analysts.

17. The Grand Jury feels that former Insurance Commissioners have not made use of the regulatory powers granted them. The Jury urges the present Commissioner to be bold in the exercise of his statutory authority and to continue to seek whatever additional legislation the office needs to properly perform its functions.

PART II - PROBLEMS IN DETERMINING FAIR PREMIUMS

Driver Classification

In any classification system, a general population is divided into a set of subpopulations consisting of individuals each considered to have a similar probability of loss. It is useful to establish criteria which describe the objectives and constraints of classification. We can identify five such criteria.

1. Separation - This is a measure of whether classes are sufficiently different in their average expected losses to warrant the setting of different premium rates. The goal is to establish classes such that the mean expected loss of any class is far enough apart from the mean of the next class to minimize the chances of misclassifying an individual due to random error or the overlapping of classes.

2. Homogeneity - Deals with differences among members of an individual class. Since all members of a class pay the same rate, it is desirable as a matter of equity to avoid wide differences in the probable losses of individual members within a single class. The probable loss of each individual group member should fall as close as possible to the average probable loss of the group as a whole.

3. Reliability - A classification system is useful only if it provides a practical and reliable way to predict the losses of the individual members of each class. The distinction should be objective, clearly defined and easy to verify. The use of a car, for example, might be easier to verify than the places the car is principally driven. The latter is too susceptible to fraud and nearly impossible for an insurer to check on.

4. Admissibility - All classifications must meet a minimum standard of social acceptability. Distinctions must be permissible under federal and state anti-discimination and privacy statutes.

5. Incentive Value - A good classification system should if possible provide an incentive for policyholders to take precautions which will reduce accidents and losses.

This Grand Jury believes that the proliferation of classifications used by many companies doing business in this state results in miniscule statistical groupings and excessive heterogeneity within the various classes and causes discriminatory, biased and patently unfair rates.

Classifications based on race, religion, or nationsl origins are absolutely unacceptable in this day. The only acceptable system of classification is one based on factors within an individual's control and those factors that are actually related to causing losses. Thus, it appears that age may not be a reliable rating factor - it's beyond one's control - and there is no causal relationship between age and accident frequency. The causal factors of accidents relate more to maturity, responsibility, and most important, driving experience. Based on a study of drivers in their own states, Massachusetts and North Carolina prohibit classification by age or sex. The law says that when an individual reaches the age of 18, he is an adult. Despite the fact the law recognizes that 18-year olds are capable of responsible adult behavior, all drivers under age 25 are penalized by higher than adult rates and in the case of at least one company, single males are penalized until they are age 40.

It is obvious that there are many young drivers who do not present a high risk of accident, just as there are many high risk adult drivers. Therefore, this classification by age is not justified. Obviously, there are great differences in risk level between various persons under age 25 (homogeneity). Thus, there is a great risk of serious overlap between this class and the adult class (separation).

Our investigation indicates marital status is also unacceptable as a means of classification. Although studies show a difference in expected losses between married and unmarried males, it is not the condition of marriage that causes better driving habits, but presumably the qualities of maturity and responsibility associated with being married. Are we to assume that the responsible, hard working single male supporting a widowed mother and several brothers and sisters is less mature than the married, unemployed neer-do-well? Marriage is used by insurance in rating only because it is more easily determined than maturity or responsibility. Obviously, there are mature singles and immature marrieds. This is not reflected in the current system and this means of classification fails the test of separation, homogeneity, reliability, and admissibility, and certainly the test of admissibility.

Trying to classify by how much and for what purpose the car is used lends itself to fraud because of the difficulty in verifying these factors. Though not currently employed, driving experience appears to provide a valid basis for classification. Several states have adopted this sytem. Reliability poses no problem as it can be objectively determined and verified. Neutral with respect to age and sex, it is clearly less controversial and more socially acceptable than the traditional rating variables now in use since it is non-discriminatory. Sex and age distinctions are simply not sufficiently causally related to the likelihood of loss to be acceptable.

It is important that any classification system be as accurate as possible without being unfair. The systems currently used in Florida appear only moderately successful in terms of accuracy. They do not treat invididuals with sufficient fairness. Significant

differences among individuals exist within the bounds of the current classes. There are substantial misclassifications. Little attempt has been made to assure that a causal relationship exists between the classification variables and accident likelihood.

RECOMMENDATIONS

1. Insurance companies should be prohibited by law from using sex, age or marital status as a classification in determining the premiums to be charged an individual motorist. Driver classifications should be restricted to the following:

A. Drivers with less than three years of driving experience.

B. Drivers with more than three years of driving experience.

C. Business Use.

D. Annual mileage driven if it can be accurately verified.

2. Any company desiring to use additional classifications should be required to demonstrate their validity and fairness to the Insurance Department before using it.

Redlining and Territorial Classification

Redlining is a term used by businessmen to describe the practice of deliberately and systematically refusing to do business with a particular group of people because of their location. Examples of it in the financial world are the refusal of institutions to loan money to persons or businesses in a particular area such as a black ghetto.

Our investigation reveals redlining also occurs in the insurance industry and Dade County has been a victim. Although redlining was denied by some witnesses before the Grand Jury it was confirmed by

others. Commissioner Gunter testified that he knows Dade County is redlined by various insurors but under present laws he is powerless to do anything about it.

In some cases, the redlining is obvious as when a company simply will not write insurance in Dade County. Other cases are far more subtle and insidious as when a company avoids the business by simply not locating agents in what the company perceives to be undesirable areas.

A study in Los Angeles resulted in the recent filing of a class action suit challenging the territorial classification system and redlining tactics used by the automobile insurance industry there. The Los Angeles report reveals minority discrimination and our investigation indicates it occurs in this state and county as well. The lack of conveniently located agents for many of the leading companies and the predominance of the so-called "Bucket Shops" in black neighborhoods who write only for FJUA is significant. Even when a minority residential area is in the same insurance territory as a more affluent white residential area it does not mean the residents of each will receive the same treatment from the company.

The resident of the white affluent residential area has a considerably better chance of obtaining automobile insurance in the voluntary market, while the minority citizen will in all probability wind up in the FJUA with its higher rates and the stigma attached to such assignment.

Redlining practices have forced excessive numbers of Dade County drivers into the FJUA, including those who have driven many years without accidents or violations. It also contributes to the high level, estimated by some witnesses to be as much as 50%,

of uninsured motorists in Dade County. This presents financial hardships for innocent accident victims and for Dade taxpayers as well, since such accident victims often become charges of the county.

Other victims of discrimination are those who live in urban areas and are penalized by the insurance companies' simplistic approach to determining fair premiums. Urban areas not unexpectedly suffer the highest accident rates because of their traffic congestion. While urban, suburban and rural drivers contribute to this congestion in such cities as Miami, it is the urban residents who suffer the highest insurance rates.

The insurance companies attempt to justify their territorial rate discrimination against the urban driver by arguing that the accident in the urban area involving a non-resident motorist is allocated to his own rating territory. Studies in other states show this provides only partial relief for the urban residents' rating problem.

This Grand Jury concurs in the position that the insurance companies' response to the urban-rural problem is inadequate.

The congestion created by nonresident traffic obviously can and does create accidents between vehicles owned by residents even when the out-of-town vehicle is not physically involved. Despite this, the insurance companies assign rates based upon the principal place of garaging with insufficient regard to where the automobile is operated. Testimony before the Grand Jury makes it clear that insurance territories are arbitrarily drawn and not one witness could explain the rationale for them.

While some forms of territorial classifications may be valid any plan which is based on geography alone is unacceptable simply because it cannot withstand scrutiny as to separation of class.

A territorial plan based on accident frequency might be more acceptable but would still have weaknesses because of the heterogeneity problem. This would be especially true in the highest rated areas. In any territorial classification there are certain to be large numbers of both good and poor risk drivers.

The use of territory as a class, based on the place a vehicle is garaged also encourages fraud and is unreliable. Many motorists who drive where rates are highest register their cars where the rates are lowest. This is most common when people own second homes.

While there appears to be some causal relationship between geography and the probability of accidents responsible individuals forced to live in urban areas should not be penalized simply for community conditions.

Insurance companies admit territorial classification encourages urban flight. Developers in Broward, extreme South Dade and Palm Beach counties often advertise in Dade County, "SICK OF HIGH INSURANCE PREMIUMS? MOVE TO...etc."

This Grand Jury asked a number of witnesses what the effect would be of establishing a uniform territorial rate throughout the state. Insurance company and Insurance Department experts freely speculate as to the possible effects of such an action. When pressed for specific facts, they uniformly admit they have none since they have never actually taken the trouble to conduct such a study. This is typical of the way important insurance issues are resolved in this state.

RECOMMENDATIONS

1. The Insurance Commissioner should immediately require every insurance company doing business in Florida to do so in

every area of the State. He should prohibit redlining of any county, city or neighborhood. If the courts rule that the Commissioner does not have the power to do this as the Commissioner claims, the Legislature should immediately give it to him.

2. The Insurance Department should institute an immediate study in order to determine the effect of eliminating geographical location as a factor in establishing insurance rates.

Surcharging

The Grand Jury has investigated the practice known as Surcharging which is engaged in by many insurance companies. It involves penalizing drivers who are convicted of moving traffic violations or for being involved in accidents by increasing their insurance rates.

The Jury sought but was unable to discover any evidence or research in Florida to support the current surcharging practices. The Insurance Commissioner has ordered all companies utilizing surcharges to submit evidence in support of them. So far no competent evidence has been submitted. There is a substantial question in the mind of this Jury whether any such evidence exists.

While one insurance company expert testified that he felt some surcharges could be justified, he admitted he could not justify the amount of the surcharges. Another industry representative admitted that the insurance industry used surcharges to collect more premiums even though they were not statistically justified because, "The public does not object to it..."

This Grand Jury rejects such inequity and patent unfairness and believes each motorist should pay his fair share of the costs and no motorist should be forced to pay excessive and arbitrarily inflated rates because, "the public does not object."

Another gross injustice in the present surcharge system is the application of the surcharge as a percentage of premium.

Using the same table of premiums cited earlier in this report, two motorists convicted of the same traffic violations evoking a 10% surcharge would result in the adult Tallahassee driver being surcharged $15.00 and the 19-year old Dade County driver being surcharged $98.60, a greater than six to one differential. The FJUA, conceding the injustice, has proposed to reduce this rate differential on surcharges but it would still be more than three to one and is still based on a percentage of premium.

Traffic violation surcharges have been defended before this Grand Jury as an incentive device that motivates motorists to drive with greater care. We believe that this should be a function of the Legislature rather than the Insurance Industry. If driver behavior can be modified by financial punishment in excess of present fines then the State, not the insurance companies, should levy these fines.

RECOMMENDATIONS

1. The Insurance Commissioner should immediately require all companies to obey the law regarding surcharges. If the companies can't produce proof of a direct, demonstrable and objective relationship between the event giving rise to the surcharge (such as a moving traffic violation) and the increased risk of loss to the company as the law requires, the particular surcharge practice should immediately cease.

2. The Commissioner should immediately order all companies to stop the practice of surcharging on percentage of premium basis.

Expense Loading

At present insurance companies recover their cost of doing business by charging a percentage of the premium to each motorist. Virtually everyone agrees this penalizes the urban motorist whose rates are already considerably higher.

While administrative costs of issuing a policy may be slightly different in a rural county than in an urban county, the practice of charging approximately one-fourth of the total premium to cover commission and expenses creates another gross inequity for the urban motorist.

This is demonstrated by the example of the adult living in Tallahassee who will pay only $22.50 to cover company expenses. If this same driver lived in Miami, he would have to pay $56.26 as his share of these expenses. While the young male (age 19) in Tallahassee pays $68.12 for his share of the company's expense, his Miami counterpart pays $174.40.

But it gets worse. It becomes even more grossly unfair and discriminatory when FJUA comes into the picture.

If he were insured in the FJUA, the adult rural driver would pay $39.26 for expense loading; the Dade adult would pay $119.08 for expense loading. While the 19-year old rural driver would pay $99.06; the Dade County 19-year old male would pay $256.36. How do the companies justify this?

The companies claim that urban agents have a higher cost of doing business and that the insurance companies cost of doing business in the urban counties is higher because of regional office rental costs, etc. While the Grand Jury recognizes that selling agents have nominally higher expenses in urban areas, we cannot accept that this is a sufficient basis for the gross differentials cited above.

RECOMMENDATIONS

1. The Insurance Commissioner should immediately order all insurance companies doing business in the State of Florida to cease calculating expense loading as a percentage of premium. Company expenses should be pro-rated as a fixed dollar amount against all policies issued. If any company expenses can be proven to vary by location, allowance should be made therefor.

2. Agents' commissions should be based on a fixed amount per policy issued, which would be a flat dollar amount statewide, plus a nominal percentage of the premium to cover differential cost of agents doing business in various parts of the State.

These recommendations apply to both the voluntary market and FJUA. The objective must be to equalize each individual policyholder's contribution so that he pays only his fair share of the insurance company's sales and administrative expense.

Actuarial Techniques

To employ any risk classification system involving more than one variable there must be a valid method of computing the combined effects of variables.

The insurance companies have customarily determined the price of each coverage for any motorist, taking into account driver class and territory, through an actuarial technique known as the multiplicative method.

That technique, as used to set the price for an individual policyholder, involves the multiplication of an average statewide price by a factor reflecting the experience of the territory involved and then multiplying the product by a factor representing the driver class.

This technique does not employ the actual claim experience for any particular combination of driver class and territory. It assumes that a constant multiplicative relationship among driver classes will be maintained in all territories and that a constant multiplicative relationship among territories holds for all driver classes.

An in-depth study of this problem concludes that the multiplicative technique appears to consistently overcharge drivers in high rated classification groups. The study asserts that the traditional multiplicative method predictably and systematically leads to unreasonable pricing for some drivers due to statistical weaknesses in the method. This can be easily overcome by using an alternative method called the "additive least squares method" which develops a premium considerably closer to the actual experience.

The additive least squares method is also superior to the traditional multiplicative method in that it is simpler in theory and more in keeping with modern statistical principles.

TRADITIONAL MULTIPLICATIVE METHOD...

PRICE FOR PARTICULAR TERRITORY & DRIVER CLASS	=	Statewide average price	X	Driver Class relativity factor	X	Territory relativity factor

THE ADDITIVE LEAST SQUARES METHOD...

PRICE FOR PARTICULAR TERRITORY & DRIVER CLASS	=	Statewide average	+	Driver Class Differential	+	Territory Differential

The impact of a company using the out-of-date multiplicative method is easily demonstrated. Let us say an insurance company believes a single male under 25 years old represents three times the risk of loss that the average driver does. Further, the

company believes anyone garaging his car in Dade County represents three times the risk to the company that a resident of any other part of the state does.

If the young man in our example is unfortunate enough to garage his car in Dade County, his company will probably charge him some nine times as much for his insurance as they would an adult living outside of Dade. This is so even though statistical studies show he actually represents a risk of somewhat more than six times but considerably less than the nine times the normal rate his company will charge him.

RECOMMENDATIONS

1. The Insurance Department should conduct an immediate in-depth review of the actuarial techniques employed by every automobile insurance company in the state to determine not only whether the figures they submit add up but also whether the techniques the companies employ do justice and equity to each of their policyholders.

2. If the Department does not have the capacity to do so, the Commissioner should go to the Legislature or if necessary the public to get it.

PART III - THE FLORIDA JOINT UNDERWRITING ASSOCIATION (FJUA)

Prior to the adoption of the Joint Underwriting Association in October 1973, Florida operated under the Assigned Risk Plan providing auto insurance to high-risk drivers unable to obtain it in the voluntary (standard) market. The high-risk business was assigned on a rotating basis to those companies writing automobile liability insurance in Florida. This often had the effect

of jeopardizing the financial stability of small companies due to the "luck of the draw." There were many instances where claims were not paid. In the FJUA, to the contrary, the risks are pooled or spread among 234 carriers on a basis proportionate to the amount of business they do in the vountary market. All these companies share in the administrative overhead including agents' commissions, claims paid, and the costs of handling claims. Fourteen companies, called servicing carriers, actually conduct all business as the FJUA on behalf of the remainder of the carrier pool.

The servicing carriers are Allstate, Commercial Union Insurance Company, Fidelity & Casualty Company of New York, Fireman's Fund Insurance Company, Florida Farm Bureau Casualty Insurance Company, General Accident Fire & Assurance Corp., Ltd., Hartford Accident Indemnity Company, Insurance Company of North America, Lumbermen's Mutual, Nationwide Mutual Insurance Company, South Carolina Insurance Company, State Farm Mutual Automobile Insurance Company, Travelers Indemnity Company, and United States Fidelity & Guarantee Company. There were 638,400 insured vehicles in the FJUA as of June 1977, approximately 40% from Dade County. Even though the FJUA is supposedly a mechanism for the residual (non-standard) market, it has become the second largest insurer in Florida, second only to State Farm.

It should be noted that the FJUA is neither an insurance company nor a public agency. Rather it is the creation of the insurance industry, theoretically under the control of the Insurance Commissioner, established to deal with the problem of otherwise uninsurable drivers. A Board of Governors is comprised

of representatives from four servicing carriers, four non-servicing carriers and two agents' associations. This ten-member Board was designed to set the policy for this confederation of insurance companies. FJUA's actual staff consists of less than a half dozen employees whose basic duties are apparently to field complaints. The nuts and bolts of the operation are actually conducted by the servicing carriers with very little effective guidance from the Board of Governors. As a result, the quality of service a policyholder receives is largely dependent upon the servicing carrier he happens to be insured with. The evidence before this Jury shows that even routine problems defy ready solution by FJUA's management.

This Grand Jury initially concerned itself with the FJUA when its rate-making agency, the Automobile Insurance Plans Service Office (AIPSO), filed a proposed rate increase averaging 43% with the Florida Insurance Department in July. The Grand Jury took testimony from numerous witnesses, reviewed the AIPSO rate filing, Insurance Department audits, and various reports and documents, and now presents the following findings:

1. Investment income derived from unearned premium reserves and loss reserves was not taken into consideration in the rate-making process. (Conversely, it has been suggested that some insurance companies have increased their rates partly to cover stock market losses incurred in 1974 and 1975.)

2. The FJUA divides the State into 24 territories. Dade County is divided into three territories. The territorial boundaries are arbitrarily drawn. Further, the wide range of premium differences among territories is not adequately supported. For example, the proposed annual 1A (adult pleasure use)

bodily injury liability rate for the territory which includes Tallahassee is $82, whereas Miami's rate is $409, Miami Beach is $296, and West and South Dade is $264. The rate for the Orlando area is $110 and Tampa is $130.

3. The FJUA utilizes 10 basic classifications: adult pleasure use, under 10 miles to work, 10 miles or over to work, farm use, restricted use--single male under age 25, married male under 25, single male under 25, single female under 21, single male 25 through 29, and business use. These designations apparently are convenient groupings, but they are also discriminatory and relationships to accident and claim propensities are highly questionable. Further, the premium variances among these classes are not adequately supported. In the Miami territory, the proposed adult pleasure use rate is $409, the single male under 25 rate is ~~$614~~ 900.

4. The FJUA makes additional charges to a given premium based on the total number of points accumulated for accidents or violations during the three years preceding the new or renewal policy date. The validity of the surcharge system is extremely doubtful. An AIPSO vice president testified that "it's not supported by the loss experience, but the public accepts it." Further, instead of a flat rate surcharge ($100 or $200 for example), surcharges are assessed as a percentage of premium (5 points amounts to 75% of the 1A premium).

5. The rating injustices found above are compounded due to the multiplicative interaction in the rate-making formula between classes and territories. AIPSO's proposed rate for the young single male living in Miami is $900 for bodily injury coverage, as compared to $82 bodily injury coverage for a Tallahassee adult who uses his car for pleasure. Add to this

a surcharge on a percentage of premium basis and an already excessive rate becomes prohibitive.

6. There was no supporting documentation for the 10.2% factor utilized to cover costs of handling those claims which are anticipated, but which have not yet been reported to the insuring carriers.

7. Administrative expenses, the agent's commission, and a 5% profit factor (called "contingencies" by the FJUA are charged as a percentage of premium instead of on a per policy basis. The young Miamian would pay 110% more of a servicing carrier's electricity bill, for example, than would the Tallahassee driver in the example cited above.

8. AIPSO has proposed a reduction in the agent's commission from 15% to 12.5%. This reduction does not address the inequity of compensating one agent $112.50 for the young Miamian's business and another agent $10.25 for insuring the Tallahassee adult (per our above example), even though the agents are basically performing the same amount of services in both instances. Cost accounting studies attribute urban areas with increased agent expenses such as rent and claims processing costs, but not to the extent outlined above.

9. The rate filing proposes to reduce the servicing carriers' allowance for reimbursement of operating costs from 10% to 8% of written premiums. Although the reduction is probably warranted, AIPSO did not provide any support for this change, nor is it able to. Inredibly, neither the servicing carriers, the chairman of the Board of Governors of the FJUA, nor AIPSO itself were able to provide either the Insurance Department or the Grand Jury with servicing carrier operating statements. "At the present time,

there is no data available with respect to expenses incurred by the servicing carriers in connection with the servicing of FJUA policies, since there has been no requirement for the submission of such data." (11/30/77 letter from AIPSO executive to FJUA executive).

10. The 14% of earned premium which is allowed to the servicing carriers as reimbursement for expenses in settling liability claims is supposed to be retroactively adjusted upwards or downwards "to a true fee amount," based on matured loss ratio data to be provided by the servicing carriers. It was not until June of this year that claim expense adjustments were completed for policy year 1973. The Grand Jury believes that this reimbursement procedure is open to abuse, since the loss ration (70% is the standard) is made up of claims already paid as well as claim reserves for future settlements; reserves are by their very nature discretionary and can be manipulated. Neither AIPSO nor the two statistical agencies which compile data for AIPSO determine the validity of the reporting companies' loss reserves. Those agencies only verify the accuracy of the numbers involved. Further, inadequate investigation and poor settlement of claims contribute to a higher loss ratio, which in turn results in higher fees to the servicing carrier.

11. AIPSO used accident year 1975 as its data base for its July 1977 rate filing. Since accident year 1976 data was first available to AIPSO in October 1977, it should have waited until the updated information was compiled before calculating and submitting the rate filing, thereby offering more validity. The Grand Jury has evidence that the timing of the July 1977 FJUA rate increase request was based on political considerations.

12. The AIPSO formula used to determine the "average statewide rate level change" of 43% involves the pyramiding of percentage factors which are themselves of dubious validity. The loss development or trend factor attempts to project a claim to its ultimate payout. The trend factor used for this filing was approximately 37% for bodily injury claims, based on the analysis of scanty and non-uniform data derived from different reporting sources. The inflationary factor chosen was approximately 28½% (8.2% annually times 3-1/3 years). The rate-making process for bodily injury liability premiums went thusly:

$ 95.54	Portion of average premium that is paid or set aside for claims and claim expenses.
x1.102	Factor covering expenses for claims not yet reported (unallocated losses).
$105.28	
x1.369	Factor for developing unsettled claims to full payout.
$144.13	
x1.284	Inflationary (loss adjustment) factor.
$185.07	This pure premium rate level is 70% (the expected loss ratio) of $264.39, which is the average rate that is proposed statewide as a result of the above calculation.

This proposed rate of $264.39 is 63.2% higher than the current average bodily injury premium of $161.98. After calculating the assumed effects of the October 1976 and July 1977 changes in Florida's No-Fault Law, the proposed increase was reduced to 43.1%, or an average statewide rate of $231.70. The same rate-making formula was applied to the property damage liability rate and the personal injury protection (PIP) rate as well.

This Grand Jury is not composed of insurance actuaries, but it is evident to us that a formula which contains adjustment factors in excess of 75% provides for a large margin of guesswork and error, especially when the percentage factors are multiplied

one on top of another. How many times during the above calculations is inflation actually considered? Excessive reliance seems to be placed on projected inflationary increases in costs. In addition, claim reserves appear to be excessive estimates of future events.

13. Testimony conflicted as to exact amounts, but the number of drivers in the FJUA with three-year accident and violation-free records appears to be in the 40% range. Only two servicing carriers have used the "take-out" provisions to any extent, and that effort has been minimal (approximately 13,500 out of some 638,400 insureds). It appears that most FJUA agents consider FJUA drivers as their own proprietary interests and are unwilling to have them transferred to the voluntary market and thereby lose the renewal commissions.

14. The Insurance Department published an audit of FJUA operations in October 1976. A 5% to 10% error ratio is apparently an acceptable standard for servicing carriers. The Department's audit indicated a combined error ratio of 18% among the 3,150 private passenger policies sampled among the 14 servicing carriers and a combined 40% error ratio for "other than private passenger" coverage. (South Carolina Insurance Company had a 38% error ratio for private passenger policies, and Lumbermen's Mutual had a 53% error ratio for the other category). Approximately $37,500 in overcharges and $101,700 in undercharges were detected in a total sampling of only 5,844 policies, less than 1% of all FJUA insureds. The Grand Jury finds it frightening to consider the full magnitude of errors possible in the total FJUA operation.

15. The FJUA Board of Governors has conducted closed "non-meeting meetings" before each annual meeting. Its official Minutes have in certain instances failed to include pertinent and sometimes detrimental topics of discussion. The Board has been very guarded in its communications with the Insurance Department. The following quotation from a December 9, 1975 letter from the FJUA's General Manager to its Board Chairman is not atypical: he complained that the performance level of INA (Insurance Company of North America) created concern "for the potential damage it could cause JUA..." and would be "prime material for referral to the Insurance Department, who may well be waiting for just such an opportunity or excuse to conduct an in-depth audit of the JUA."

16. There have been no performance standards established for the servicing carriers, notwithstanding the fact that both the Insurance Department's and their own internal audits have reflected, over the course of the past four years, a poor quality of service. Complaints cited against some of the servicing carriers by the several audits include poor management and supervision, understaffing, lack of training, poor or even non-existant loss management (investigation and negotiation of claims, etc.), failure to process policies and endorsements on a timely basis, failure to send cancellation notices, unsatisfactory agent relationships, erroneous computer input, and high error ratios involving premium under and overcharges and mistaken territorial, class and age designations.

17. There was conflicting testimony as to the need for more than the present number of servicing carriers (INA recently withdrew as a servicing carrier) in order to handle the increasing

volume of business. A member of the Board of Governors felt that fewer servicing carriers could more easily "control, audit and standardize their own operations."

18. The FJUA and AIPSO executive officers who testified occasionally astonished the Grand Jury with their lack of detailed knowledge about aspects or functions of the FJUA operation falling within their realms of responsibility. For example, no one was able to tell the Jury whether or not the 14 servicing carriers earn profits from their handling of FJUA business.

19. The FJUA reported approximately $1,815,000 in premium balances written off from October 1973 through March 1977. Although none of the inquiries made by the Grand Jury resulted in submittal of even a rudimentary accounting, the explanation given about the high lapse rates and quantity of bad checks in the residual market does sound plausible. Poor collection practices and fraud are also suspected contributors to the writeoff problem. One FJUA agent left the country with more than $80,000 in premium deposits.

20. The FJUA Plan of Operations calls only for an annual audited statement rather than a certified audit. The CPA who performs the audits only expresses an opinion as to the cash statement. He states that he cannot express an opinion as to the balance sheet or the income and expense statement because his procedures are not extensive enough. This defeats the purpose of the audit requirement, particularly when repeated rate increase requests make the need for attested figures all the more urgent.

21. The Grand Jury heard testimony to the effect that the FJUA has sustained operating losses of $138 million from inception through May 1977 "due to inadequate rates." To date, these

have been paper losses only. Loss or claim reserves are included in this figure. The FJUA pool has been able to utilize the cash flow resulting from the steady influx of new insureds. (It has grown from 228,700 in October 1974 to 638,400 in June 1977). There is little question that average rates in the FJUA need to be increased. What is subject to question is the rate-making process itself, which results in excessive and discriminatory premiums for certain classifications and territories.

RECOMMENDATIONS

1. The Insurance Commissioner should continue to deny FJUA rate increase requests until it is demonstrated that the fat, waste and inequities in the present rate structure are corrected.

2. The Commissioner and the Insurance Department must monitor the FJUA operation on a much closer basis and be prepared to take a far more active role to insure that facility is being operated for the benefit of the public and not just the insurance companies.

3. The FJUA should be the insurance facility of last resort. Only those drivers who have demonstrated by their driving record that they are undesirable risks should be placed with the facility. The companies should not be permitted to use it as a dumping ground to enable them to engage in redlining and other actions contrary to the public interest.

4. The Insurance Department should immediately study alternative means of handling the substandard insurance market, including a reinsurance facility in which the rates would be the same as any participating company voluntary market. The system which best serves the public interest is the one that ought to be placed in use in this State, regardless of the wishes of the insurance companies.

PART IV - THE DEPARTMENT OF INSURANCE AND INSURANCE COMMISSIONER

The more than six months this Grand Jury has spent investigating automobile liability insurance rates has only underscored our appreciation of the impact the insurance industry has on the lives of Dade County citizens.

Unlike most major industries, insurance companies are subject to only minimal Federal regulation, are basically exempt from the Nation's anti-trust laws and are supposed to be regulated by the individual states. The difficulty of such regulation is easily demonstrated.

Even with the powers afforded a Grand Jury the task of gathering the facts was not an easy one. While some representatives of the industry called by the Grand Jury were cooperative and forthright, many others reacted to our inquiries as though they were being asked to reveal national security secrets. Many top insurance officials claimed they did not know when asked about their company's income or profits.

State insurance officials concede they often encounter similar claims of ignorance when the inquiries are not to the companies' liking yet receive a wealth of data when the companies perceive it in their interest to furnish it.

The ability of the companies to deftly pass the buck from one to another and on to their statistical agents and rating organizations is impressive and capable of discouraging the most tenacious investigation.

In seeking basic information regarding FJUA's rate increase request this Jury was advised that, depending upon the information sought, it could only be obtained from the 14 servicing carriers or

from the 234 carriers underwriting the operation or from one of the statistical agencies used by the servicing carriers or from FJUA's rating organization or in some cases it was not available at all. The general manager of FJUA claimed the only information he had about the increase was what he read in the newspapers since his job mostly involved handling complaints from FJUA customers.

Our concern about the difficulty in obtaining information in the field is only exceeded by our concern about the accuracy of the information obtained. Obviously, amassing the statistical data necessary to make informed judgments regarding insurance is an overwhelming task. There are more than 200 carriers in Florida writing automobile insurance alone.

At present the flow of information is controlled entirely by the companies or entities created and funded by them such as NAII, ISO and AIPSO. There is little or no outside or independent verification or control of the process.

In Florida the industry is supposed to be regulated by the Department of Insurance. It is headed by an elected commissioner who is responsible for overseeing the regulation of such diverse fields as health insurance, life insurance, workers compensation and virtually every other line of insurance sold in the State in addition to automobile liability insurance. The Commissioner also serves as State Treasurer, a member of the State Cabinet and State Fire Marshal.

The Grand Jury questions whether it is fair to burden the Commissioner with so many other responsibilities and still expect him to be effective in vigorously regulating the insurance industry.

Other handicaps facing the Commissioner are the legal powers and resources furnished by the Florida Legislature. Commissioner

Gunter reports he asked the Legislature to enact a law giving him the power to order the companies to report their statistics according to a uniform plan developed by the Insurance Department. This would have given the Commissioner information needed in a usable form. Such authority would seem only fundamental to effective regulation but the Commissioner contends the Legislature rejected this request and other requests for basic regulatory tools.

The State's failure to effectively regulate this vital industry cannot be blamed solely upon legislative shortcomings. The Grand Jury is satisfied based upon the evidence we have heard that in the past insurance commissioners have not vigorously exercised the powers given them. The approach has been passive with the commissioners and the Insurance Department assuming they did not have the power to act unless it was specifically spelled out in the law. The Grand Jury cannot agree with such a conservative approach where the Florida Supreme Court has held that if a law imposes a duty upon a public officer to accomplish a stated governmental purpose then the law also confers by implication upon said officer every particular power necessary and proper for the complete exercise or performance of that duty which is not in violation of the law or public policy. The court took this position in an advisory opinion rendered in 1952.

The Grand Jury is aware that the present Commissioner Bill Gunter has been in office for only a brief period and has demonstrated a willingness to take a more active approach in protecting the interest of the insurance consumer. Among his accomplishments we note:

> The rejection of a requested rate increase filed by the Florida Joint Underwriting Association in July.

The ordering of FJUA to advise motorists with clean driving records of their possible eligibility for insurance in the lower cost voluntary market.

The ordering of insurance companies to furnish semi-annual financial statements.

The ordering of companies to rebate excess premiums to their policyholders.

Despite these accomplishments the Grand Jury urges and Commissioner Gunter has agreed to review his approach to the regulatory powers conferred upon his office to see if even a more aggressive posture would best serve the interest of all Florida's residents.

But even with the establishment of adequate regulatory powers and the Insurance Commissioner's good faith efforts to properly exercise them is not the complete solution. Effective regulation also requires an insurance department with the capacity to carry out this task. Based upon the evidence we have seen the Grand Jury considers Florida's Insurance Department woefully deficient in this area.

Other states have moved vigorously to face the problems inherent in regulating the industry by developing more powerful insurance departments. Massachusetts is a leader in this regard and the contrast between its department of insurance and Florida's is startling. The Massachusetts department regulates an industry that does approximately $2.6 billion in business annually. The Florida Department of Insurance regulates an industry which does $5.2 billion of business annually. Massachusetts has a staff of more than 60 auditors and rate analysts and more importantly six actuaries. Each of their actuaries must possess the highest academic qualifications and be affiliated with professional actuarial societies. Florida has only one actuary and he is not required

to meet any of Massachusetts' stringent qualifications. Florida has only 40 auditors and rate analysts.

Experts appearing on behalf of the insurance industry before the Grand Jury impressed us with their general awareness of the latest developments in their field. The same could not be said of all the Insurance Department employees. The Grand Jury finds the Insurance Department is extremely understaffed when it comes to skilled personnel. As presently staffed and armed with only token computer capacity the Department can do little more than spot check the data furnished to it by the companies. Under the circumstances, the Department does not have the ability or the resources to challenge the rate making, loss analysis or claim reserve practices of the companies.

The problems in the area of automobile insurance rates pointed out by the Grand Jury are already well known to those in the industry, the Legislature and others in state government familiar with the field. Perhaps the only mystery is why apparently it takes so long and it is so difficult to correct them.

Perhaps as one prominent Dade Legislator suggests the forces necessary to bring about the needed reforms will not be marshalled until the other urban areas of Florida suffer the confiscatory rates Dade Countians already confront. The same Legislator predicts "that day is not far off." This Grand Jury agrees.

Florida cannot expect the insurance industry or others with vested interests to solve the problems that exists today. Nor can it expect that the solution of the day's problems will necessarily meet tomorrow's needs. What the State needs is a regulatory structure capable of objectively analyzing the problems as they arise and formulating solutions which will serve the entire community.

RECOMMENDATIONS

1. The Legislature should appropriate the necessary funds to upgrade the State's Insurance Department to a posture where it is fully capable of dealing with the power and complexities of the insurance industry.

2. The Insurance Commissioner should conduct a nationwide search, if necessary, for the skilled professional staff familiar with the industry in sufficient numbers to enable the Department to carry out its duties.

3. The Jury urges the present Commissioner to be bold in the exercise of his statutory authority and to continue to seek whatever additional legislation the office needs to properly perform its functions.

4. The Commissioner is also urged to favorably consider the petitions filed by the Dade County Consumer Advocate and the County Attorney's office which seek to correct some of the injustices pointed out in this report in the automobile insurance field.

MADELINE CAMP, ADMINISTRATIVE ASSISTANT

IRA J. CALLMAN, BAILIFF

The entire Jury is most grateful to Miss Camp for her ability to handle the administration of the Grand Jury office with the able help of Mr. Callman. Both of these fine people are so conscientious and unselfish in the performance of their duties that this Jury would be highly remiss if we did not thank them with all our hearts for their services.

Respectfully submitted,

Frank M. Buchanan, Foreman
Dade County Grand Jury
Spring Term 1977

Attest: Joyce E. Andrews
Joyce E. Andrews, Clerk

Dated: January 5, 1978