

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

SPRING TERM 1982

FINAL REPORT OF THE GRAND JURY

FILED

NOVEMBER 9, 1982

Circuit Judge Presiding

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GRAND JURY REPORT FOLLOW UP STUDY

I. INTRODUCTION

The Charge read to us six months ago, at the beginning of our Term, contains the following:

You will have the opportunity...to inquire into, examine and investigate not only violations of the criminal law but all phases of the civil administration of government...regardless of whether criminal or irregular conduct is charged...

The grand jury should investigate every offense affecting the morals, health, sanitation and general welfare of the county. It should inquire into matters of governmental administration, including county institutions, buildings, offices and officers, and, when appropriate, make presentment concerning the physical, sanitary and general conditions.

While we were all somewhat familiar with the role of the grand jury in initiating criminal proceedings, the nature of this non-criminal function was new to us. Our understanding was increased once we read the Final Report of the last Grand Jury, dealing with Immigration and Narcotic Interdiction, and once we were briefed by a member of the Grand Jury which produced that Report.

During subsequent weeks, we learned that prior recent Grand Juries had produced Final Reports dealing with such matters as nursing homes and the juvenile and criminal justice systems. But when we asked what had been done to ascertain whether the numerous and obviously well-intentioned recommendations made in these Reports had been acted upon, we found that no formal mechanism for follow-up of previous recommendations exists. This is indeed unfortunate: the many weeks of study and the hours spent by both Grand Jurors and witnesses should not be permitted to be wasted in a Report quickly assigned to a dusty shelf.

Each Grand Jury expresses in its own way a plea that their non-criminal work not be ignored and that some attempt be made to insure that its recommendations are studied and appropriately acted upon. The last paragraph of the Final Report of the Fall Term 1980 Grand Jury, for example, dealing with the juvenile justice system stated their hope: "We clearly do not intend this Report to be another paper in a mountain of papers without any actions." And the Final Report of the Spring Term 1979 Grand Jury, dealing with nursing homes, expressed the lofty expectation that "We do not intend the Report to represent the conclusion of an investigation. We intend it to represent the beginning of a community's awareness."

So, as we considered what non-criminal areas warranted our examination, we began to ask whether we might first ask what had been done to address the concerns expressed by our predecessors. For if little or nothing has been done in the past, should we invest our time and resources in exploring new areas only to have our own work ignored in the future?

And we then posed a second question which is closely related to the first: are Grand Jury Reports dealing with non-criminal matters worthwhile to begin with? We are eighteen randomly selected citizens blessed with no collective expertise. We were told in our Charge that we are "a sword and a shield," that the "grand jury system is of ancient vintage... History has proven its effectiveness," and we were told more than once that we represent "the conscience of the community." But is that idealized view shared by those agencies and administrators affected by Grand Jury Reports dealing with governmental non-criminal matters? Or by those with training and expertise in the topics studied? And in fact is that view shared by prior Grand Jurors who have participated in the preparation of previous Final Reports?

We decided to select several recent Grand Jury Reports in order to address our two questions, which were (1) Have the Grand Jury recommendations in these Reports been addressed?; and (2) Were the recommendations regarded as valid and are such Reports of benefit to the community?

In the next section of this Report we will present a brief overview of Grand Jury Reports, as well as the method we have used to address our two questions. In the third section we will examine the question of whether the recommendations made in the three areas we selected were acted upon. The fourth section will address the issue of whether such Reports are viewed by those affected, and those with relevant expertise, as worthwhile. And in the last section we will set forth our findings and our recommendations.

II. THE GRAND JURY REPORT: AN OVERVIEW

The belief that the Grand Jury is itself a controversial institution, and arguably an outdated one, is not held by lawyers alone. Many of us were aware before our Term began that criticism of the grand jury system has been voiced for decades. And those of us who did not then share such an awareness now join those who did in recognizing that the institution is certainly susceptible to rigorous self-analysis. We have chosen to examine one aspect of Grand Jury responsibility, that being the issuance of Grand Jury Reports and their subsequent impact.

Opponents of Grand Jury Reports argue that while such Reports may be of some civic value, they may be easily abused and that grand jurors are not selected for their ability to evaluate government operations and have no business censuring public officials or institutions for violations of standards set by the jurors themselves.

The majority of states apparently do not permit Grand Jury Reports or limit such reports to proposals and recommendations. Florida, on the other hand, is one of the few states in

which the courts have expressly approved grand jury reports on public matters and public officials. For the protection of those criticized by name, but not indicted, in Grand Jury Reports a Florida Statute provides that any such individuals be notified prior to the publication of the particular Report so that they may petition the Circuit Court to suppress or expunge that portion of the Report which refers to the official.

In Florida, Grand Jury practice and procedure varies enormously among the State's twenty Judicial Circuits, many of which contain several counties each with its own Grand Jury. In rural and semi-rural counties Grand Juries are usually impaneled only when needed to consider a capital case indictment and it is not unusual for several six-month terms of Court to come and go without a Grand Jury being impaneled or called. In Hardee County, for example, the Grand Jury has met a total of four times in the past six years. In these, the majority of counties, Grand Jury Reports are non-existent. In the more populous Circuits and counties Grand Juries meet more frequently, on an average several times per six-month term of Court. Other than in Broward, apparently no Grand Jury in the State meets once weekly as does ours. Nor does any other Grand Jury in the State have its own full-time staff, as does ours.

Not surprisingly then, Grand Jury Reports are the exception rather than the rule in Florida even in predominately urban Circuits. In no Circuit other than ours does the regular practice of issuing Reports containing such matters exist.

Clearly, the use of the Grand Jury Report as a vehicle for commentary on public conditions has evolved considerably further in Dade County than elsewhere in Florida, and perhaps than elsewhere in the nation. It is this reality, we feel, that makes it particularly relevant and important that we address the issues of how useful such Reports are, and how much impact their recommendations have upon the matters reviewed.

III. STUDY METHOD

In order to address our two questions, four recent Grand Jury Reports were selected for consideration of their impact, their relevance, and in order to measure the extent to which the various recommendations in these Reports have been acted upon. These Reports were:

(1) The Report on Immigration and Narcotic Interdiction, issued by the Fall Term 1981 Grand Jury on May 5, 1982. This Report assessed the impact of refugees and aliens upon local government institutions and the problem of narcotic interdiction in South Florida.

(2) The Report on Nursing Homes, issued by the Spring Term 1979 Grand Jury on November 13, 1979. This Report addressed conditions in local long term care facilities and the effectiveness of the nursing home inspection process.

(3) The Reports on Juvenile and Criminal Justice and Community Control, issued by the Fall Term 1979 Grand Jury and Fall Term 1980 Grand Jury, respectively. These Reports addressed the effectiveness of juvenile justice system rehabilitative efforts and, in the latter Report, specifically dealt with juvenile probation, which is known as Community Control.

Next a total of eighty-eight "experts" in the three areas were selected. These experts included all of the local witnesses who had testified in the respective investigations as well as persons in administrative positions in the agencies dealt with in the Reports and, in the case of the Immigration and Narcotic Report, a number of academicians in local universities with expertise in the matters under consideration.

For an evaluation of the Nursing Homes Report thirty-two experts were identified, including thirteen nursing home administrators, thirteen persons employed by the Department of Health and Rehabilitative Services (HRS) and three persons employed by Dade County.

In the case of the Immigration and Narcotic Report, twenty-five experts were identified, including five from the Federal government, ten from Dade County agencies, one State of Florida employee and nine academicians.

Thirty-one experts were identified for the evaluation of the Juvenile Justice System Reports. Twenty-one of these were HRS employees, four were Circuit Court Juvenile Division Judges, two were Dade County program administrators, three were Assistant Public Defenders and one was an Assistant State Attorney.

Three questionnaires, each relating to one subject area, were then prepared and mailed to the experts. These questionnaires were supplemented by an in-person interview which was given to each expert. Seventy-eight of the eighty-eight experts (90%) returned the questionnaires and were interviewed. The interviews and questionnaires were anonymous and the experts' name was included only if he or she specifically indicated it could be.

An additional questionnaire was prepared and mailed to each of the seventy-two grand jurors who sat on the four Grand Juries which issued the four Reports being studied. Of these, thirty-three returned their questionnaires (46%).

A package containing the various questionnaires, interview forms and a list of the experts will be made available after the publication of this Report.

IV. THE GRAND JURY RECOMMENDATIONS: HOW RELEVANT AND HOW RECEIVED?

Our first priority in undertaking this inquiry was to determine how meaningful the various Grand Jury recommendations were. And to be ultimately meaningful it was felt that a recommendation must be both regarded as relevant, meaning correct and appropriate, and that it must subsequently be acted upon effectively.

In this section of our Report we will consider, in the context of each of the three subject areas, the responses of the experts and of the former grand jurors to those questions relating to the correctness and appropriateness of the various recommendations, and as to how these same experts assess the responsiveness of the agencies to implementing these same recommendations.

(A) THE NURSING HOMES REPORT

Five of the principal recommendations contained in the Nursing Homes Report were included in the experts' questionnaires and interviews:

- (1) The HRS Office of Licensure and Certification must be provided with new direction and new initiative.

That Grand Jury Report was highly critical of the agency principally responsible for the inspection and regulation of nursing homes, which was the Office of Licensure and Certification.

In response to the 1979 Nursing Homes Grand Jury Report, HRS completely reorganized the local inspection effort and its administration.

Ninety-seven percent of the experts agrees that the Grand Jury was correct in making this recommendation, with none disagreeing. And 72% of the same experts felt that the recommendation had been acted upon effectively, with only 12% disagreeing and 15% undecided.

- (2) A method must be devised to ensure that Licensure and Certification review the findings of all other inspection authorities (such as the Health Department) and that its legal sanctions be invoked on behalf of those other agencies.

The Grand Jury Report had concluded that the various inspection agencies were not operating in a coordinated manner and that, since Licensure and Certification was the only agency which could impose disciplinary sanctions, that agency should act to enforce the negative findings of the other agencies.

A significant, but lesser, number of experts (72%) felt that the Grand Jury was correct in making this recommendation with 14% disagreeing and 14% undecided. But less than half, 48%, felt that this recommendation has since been acted upon effectively with a substantial number, 38%, undecided and 14% disagreeing.

- (3) Inspectors fail to adequately respond to the greater need for greater vigilance in those homes which consistently provide poor quality of care and those which are mediocre.

Seventy-six percent of the experts agreed with this statement, with only 4% disagreeing and 19% undecided. A substantial 65% felt that this shortcoming had been corrected with only 8% disagreeing and 23% undecided. Here again the experts appear to feel that HRS has been responsive to the Grand Jury Report.

- (4) An annual review must be made of all the reports of all the regulatory agencies responsible for nursing homes inspection.

The Grand Jury had found that, due to the fact that the various regulatory agencies acted autonomously and without sufficient coordination, no attempt was being made to periodically pool all of the information that existed relative to the quality of care in a particular home over a particular period of time. The Grand Jury recommended that a particular agency be assigned this task.

Eighty-two percent of the experts felt this was a correct recommendation, with only 15% disagreeing and 4% undecided. Yet only 27% felt that the recommendation had been acted upon effectively with 42% feeling it had not and 30% undecided. Here we find for the first time a recommendation that, according to the experts, was correct but may not yet be followed.

- (5) The need exists for a more sensitive evaluation method which would better assess the quality of life in the homes.

All of the experts agreed with this statement with none disagreeing. Yet only 34% indicated that they felt it had been acted upon effectively, with 40% disagreeing and 26% undecided.

This response is due at least in part to the fact that the instrument used to evaluate nursing homes is federally created and federally mandated. Thus, absent action at the federal level it is in fact impossible to fully address the Grand Jury's dissatisfaction with the present method.

In addition to questions regarding the five foregoing recommendations, several questions were asked regarding the state of longterm care since the Report was issued:

- (6) Was the creation of the HRS Long Term Care Task Force an effective response to the Grand Jury Report?

Two-thirds (64%) of the experts felt that it was, while only 11% disagreed and 25% were undecided. This certainly appears to represent a strong endorsement of the Long Term Care Task Force as well as of HRS' response to the Grand Jury Report.

- (7) Is the current nursing home rating system adequate and does it provide the consumer with sufficient information regarding the quality of life in individual nursing homes?

The Grand Jury had been extremely critical of the fact that no adequate rating system existed for these facilities and that, as a result, the consumer was left without the necessary information to rank or rate them in any way.

Only 12% of the experts felt that the current rating system is adequate with half (53%) contending it is not and 35% undecided.

Finally, an overall assessment of the relevance of the Report, and of the effectiveness of the response, was called for:

- (8) Did the 1979 Nursing Homes Grand Jury Report accurately identify the key issues?

Eighty-four percent of the experts felt that it did, with 8% disagreeing and 8% undecided.

- (9) Overall, have the key agencies named in the Report reacted constructively to the Report and are they implementing the recommendations made in the Report?

More than two-thirds (70%) of the experts agreed that the response by HRS (certainly the "Key agency" here) was constructive and that the recommendations were being implemented, with only 4% disagreeing and 27% undecided.

B. THE IMMIGRATION AND NARCOTIC INTERDICTION REPORT

Here four Grand Jury recommendations were selected for evaluation of relevance and agency response. It should be remembered that this Report was issued only several months before the experts were consulted and the responses, including the large "undecided" percentages in some instances, reflect the fact that it is probably too early to evaluate the effectiveness of agency responses to that Report.

- (1) Our federal legislators must assign a high priority to the development of an equitable immigration policy which will meet the needs of South Florida.

Only 10% of the responding experts agreed that the recommendation had been acted upon, with an overwhelming 85% disagreeing and 5% undecided.

- (2) Immigration and Naturalization Service (INS) efforts to control immigration are totally inadequate and the agency lacks adequate resources.

Nine out of ten responding experts agreed with this assessment: 90% agreed with 10% disagreeing and none undecided!

And when asked if this problem had since been acted upon effectively since the issuance of the Report last May, not a single expert felt it had. Of the respondents 20% were undecided and 80% felt it had not.

- (3) Local officials must develop a growth plan for South Florida in anticipation of a potential new influx of refugees.

Only 10% agreed that local officials had undertaken this planning effort, with 20% undecided and 70% indicating that this effort is being made.

- (4) The federal government must take the initiative to protect us from the Mariel refugees who remain unassimilated.

Only 5% of the responding experts agreed that the federal government was taking this initiative, 5% were undecided and an overwhelming 90% felt that the federal government was not taking this initiative.

Because of the recency of this particular Report, rather than test the response to other recommendations, questions were asked which related to the relevance of findings made in the Report:

- (5) The Grand Jury was correct when it suggested that the federal role has been one of "benign neglect" in the face of the refugee influx.

Eighty percent agreed with this statement, 15% disagreed and 5% were undecided.

- (6) Dade County has done an excellent job of absorbing the refugee influx.

Here again 80% agreed and 15% disagreed with 5% undecided.

- (7) INS is now attempting to deal more effectively with immigration problems generally and with the problem of illegal aliens in our criminal justice system specifically.

Here again we find evidence of a sense that INS is ineffective: only 5% of those responding agreed with this statement, 85% disagreed and 10% undecided.

- (8) The decision to release most of the Haitians at Krome was a correct decision.

Three quarters of the experts (75%) agreed with this statement, with 20% disagreeing and 5% undecided.

- (9) The Grand Jury Report contributed to the federal decision to release the Haitians at Krome.

Sixty percent of the experts agreed with this statement with only 15% disagreeing and 25% undecided.

- (10) The Grand Jury was correct in concluding that the extent of criminality among the Mariel refugees had been somewhat exaggerated.

Here, 85% agreed with this statement with 10% disagreeing and 5% undecided.

- (11) The Mariel refugee crisis is now behind us and we as a community handled the crisis in a commendable manner.

Here we find an interesting lack of consensus:

40% agreed, 45% disagreed and 15% were undecided.

- (12) The Vice-President's Task Force has made a permanent and positive impact upon drug smuggling in South Florida.

Here again we see a lack of consensus, again perhaps attributable to the recency of the Report: 40% agreed with this statement, 30% were undecided and 30% disagreed.

- (13) The Grand Jury was correct in finding that we have not fully committed ourselves as a society to the eradication of narcotics.

Ninety percent of respondents agreed, 5% were undecided and 5% disagreed.

- (14) No drug interdiction effort will be effective without community educational efforts designed to decrease the demand for narcotics which we have ourselves created.

Here a full 95% agreed. None disagreed and 5% were undecided.

- (15) The Grand Jury was correct in recommending that dangerous Mariel refugees should be identified and taken into federal custody once they are convicted of felonies.

All of the respondents agreed. None disagreed and none were undecided.

As in each of the three series of questionnaires and interviews, an overall assessment of the relevance of the Report and of the effectiveness of the Report was requested:

- (16) The 1982 Immigration-Narcotic Final Report accurately identified the key issues in those two areas.

Ninety-five percent agreed. None disagreed, with the remainder undecided.

- (17) Overall, the Report made accurate and constructive findings and recommendations.

Ninety percent agreed, none disagreed, 10% were undecided.

- (18) Overall, the key agencies named in the Report have reacted constructively to the Report and they are implementing many of the Recommendations made in the Report.

Only 10% agreed, a dramatic difference from the response in the nursing homes subject area, with 30% disagreeing. Yet 60% of the experts were undecided in their response, again indicating that a judgment now would be premature.

C. THE JUVENILE JUSTICE SYSTEM REPORTS

Here, as in the case of nursing homes, the Florida Department of Health and Rehabilitative Services (HRS) is the relevant agency which should be expected to respond to Grand Jury recommendations in most instances. We should point out, however, that while HRS expressed substantial agreement with most of the Grand Jury findings with respect to nursing homes that this was not the case with respect to the Report on Community Control, as will be discussed later in this Report.

The following responses should be read in that context: where disagreement exists with respect to Grand Jury findings we would not expect the affected agency to blindly comply with the recommendations. We do note, however, that of the responding experts 21 of the 31 were HRS employees and that for the most part they find the Grand Jury recommendations to have been appropriate:

- (1) The Grand Jury was correct in stating that more intensive supervision and services must be made available to the younger second or third time juvenile referrals whose profiles indicate a likelihood of recidivism.

Ninety-six percent agreed with none disagreeing and 4% undecided.

When asked if the recommendation had been acted upon effectively only 27% agreed with 54% disagreeing and 19% undecided.

- (2) The Grand Jury was correct in recommending that State School should be phased out and closed and replaced by small community based residential facilities.

Here we see no clear consensus: while 52% agreed with the recommendation, 36% disagreed and 12% were undecided. This lack of consensus may account for the response to the next question:

When asked if that recommendation had been acted upon effectively, since the State training schools have not been closed, it is interesting that 8% of the experts answered yes anyhow. More predictably, 73% disagreed and 19% were undecided.

- (3) The Grand Jury was correct in stating that effective manpower and training and substance abuse programs either do not exist in this community or, if they do exist, are having little or no impact upon the youthful offenders most in need of such services.

The programs referred to are vocational training and substance abuse programs that must exist as referral resources for HRS personnel.

Sixty-four percent of respondents agreed with this statement, 18% disagreed and 18% were undecided.

When asked if that recommendation had been acted upon effectively, only 23% agreed that it had. Thirty-five percent felt that it had not and 42% were undecided. This disagreement among the experts, as we will indicate in our own recommendations, should provide an important area for the next Grand Jury to explore.

- (4) The Grand Jury criticism of the Juvenile Community Control program correctly identified problem areas needing corrective steps.

Ninety-two percent agreed with this statement. Only 4% disagreed and 4% undecided.

- (5) The Grand Jury was correct in recommending that the Community Control program develop different profiles of delinquents and that a variety of strategies be developed to deal with these different profiles.

Eighty-nine percent agreed, with 8% disagreeing and 4% undecided.

When asked if this recommendation had been acted upon effectively, twenty-six percent said yes, 51% disagreed and 23% were undecided. Here again we find an important recommendation without evidence it has been adequately pursued.

- (6) The Grand Jury was correct in stating that Community Control caseworker inservice training must be dramatically improved.

Ninety-six percent agreed and 4% disagreed,

When asked if this recommendation had been acted upon effectively, only 24% said yes with 50% disagreeing, 27%, however, were undecided.

- (7) The Grand Jury was correct in stating that increased coordination and clarification of responsibilities were needed for HRS intake, field community control and the courts.

Eighty-four percent agreed, 12% disagreed and 4% were undecided.

When asked if this recommendation had been acted upon effectively, here we again find an absence of agreement: 40% agree, 33% undecided and 26% disagreed.

- (8) The Grand Jury was correct in stating that community control violations were often ignored and that youths were rarely disciplined for violating community control obligations.

While HRS officially disagreed with the correctness of this statement, 64% of the respondents did agree, 32% disagreed and 4% were undecided.

When asked if this recommendation had been acted upon effectively, given HRS' position it is not altogether surprising to find that only 30% agreed with 52% disagreeing and 18% undecided.

- (9) The Grand Jury was correct in stating that aftercare, or furlough, cases should not be handled on the same caseload (nor in the same manner) as community control participants.

Sixty-two percent of the experts agreed with this recommendation. A sizeable 29% disagreed with 8% undecided.

When asked if this recommendation had been acted upon effectively, only 20% said yes, 56% disagreed and 24% were undecided.

- (10) The Grand Jury was correct in stating that inadequate salary levels for HRS counselors was having a devastating impact upon morale and performance.

Ninety-six percent agreed and 4% disagreed.

When asked if this recommendation had been acted upon

effectively, 4% said yes and 96% disagreed. Here the State Legislature is responsible.

Some other questions dealt with perception of the effectiveness of the juvenile justice system:

- (11) Law enforcement and rehabilitative officials in Dade County are knowledgeable of what is and what is not effective in preventing juvenile recidivism.

Fifty-four percent agreed and only 27% disagreed. Nineteen percent were undecided.

- (12) The juvenile justice system is not able to make any meaningful impact upon juvenile recidivism.

Even more optimistically, 73% of the respondents disagreed with this statement, 23% agreed and 4% were undecided.

- (13) The State provides an equal distribution of community-based facilities for delinquents throughout Florida.

The Grand Jury Report had contended that Dade County was not being allocated a fair share of "beds" in local facilities.

Now, one and one-half years later, only 4% of those responding felt the situation had changed for the better. Eighty-four percent felt that it had not and 8% were undecided.

Here again, an overall assessment of the relevance of the Report and of the effectiveness of the Report was requested:

- (14) The 1980 and 1981 Grand Jury Reports dealing with the Criminal and Juvenile Justice Systems and Community Control accurately identified the key issues in those two areas.

Eighty-five percent agreed, with 7% disagreeing and 7% undecided.

- (15) Overall, the Reports made accurate and constructive findings and recommendations.

Here, 77% agreed, 23% disagreed and none were undecided.

- (16) Overall, the key agencies named in the Report have reacted constructively to the Reports and they are implementing many of the recommendations made in the Report.

Here, despite many of the responses regarding individual recommendations, we find a prevailing sense that HRS has generally reacted constructively to the Grand Jury Reports: 56% agreed, with 20% disagreeing and 23% undecided.

D. SUMMARY

As to the questions of the accuracy of the issues identified in the three areas and of the findings and recommendations made, the experts responded as follows:

<u>Report</u>	<u>Accurately Defined Issues</u>	<u>Accurate Findings and Recs.</u>
Nursing Homes	81%	81%
Immigration/Narcotics	95%	90%
Juvenile Justice	85%	77%

And as to the second question, regarding whether the experts agreed with the statement that the key agencies have reacted constructively and are implementing the Report recommendation, the percentage of respondents who agreed was:

<u>Report</u>	<u>% Agreeing</u>
Nursing Homes	70%
Immigration/Narcotics	10% (60% undecided)
Juvenile Justice	56%

These data speak extremely well of the impact of the Reports generally: not only were all three Reports regarded as accurate and relevant, but the agency most involved in the Nursing Homes and Juvenile Justice Reports (HRS) is generally viewed as having reacted constructively to the various recommendations.

While the experts are more pessimistic in the context of the Immigration and Narcotics Report, it is evident that many felt that any conclusion at this time would be premature.

E. THE JURORS' RESPONSE

An additional question relates to how the grand jurors viewed the relevance and impact of their Reports and how their responses coincide with those of the experts.

When asked whether "our Grand Jury Final Report accurately identified the key issues in the topic we studied," 97% (32 of 33) agreed, with one undecided.

And when asked whether "our Report made accurate and constructive findings and recommendations," 31 of 33 agreed with one undecided.

As to the overall impact of the Reports, the responses showed less unanimity. In response to the statement, "Our Report has brought about constructive and positive steps to improve the conditions described in our Report," nineteen agreed (57%) and six disagreed (18%) with eight undecided (24%).

Overall the Grand Jurors indicated that their efforts were worthwhile. When asked for their reactions to the statement, "The work we did, and time we spent, in studying the issues contained in our Final Report was time well spent," twenty-six agreed (78%) and two disagreed (6%) with five undecided (15%).

When these questions and responses are broken down by subject area, the jurors' reactions coincide to a great extent with the responses of the experts:

<u>Report</u>	<u>Accurately Defined Issues</u>	<u>Accurate Findings & Recs.</u>	<u>Resulted in Constructive Improvement</u>
Nursing Homes	87%	81%	69%
Immigration/ Narcotics	94%	88%	9%
Juvenile Justice	78%	73%	56%

V. GRAND JURY REPORTS: HOW WORTHWHILE?

As we move from the question of the relevance of the various recommendations and the receptivity of the affected agencies to the question of how worthwhile are such Reports generally, we are pleased to find the same positive conclusions on the part of both the experts and of the jurors.

A. IMPACT OF GRAND JURY REPORTS.

Both the experts and the former grand jurors were asked to comment upon their perception of the impact of their own Report as well as the impact of Grand Jury Reports generally.

(1) Nursing Homes

When asked to respond to the statement, "This Grand Jury Report, like most Grand Jury Reports, has made little impact upon the issues studied," only 8% of the experts agreed with

fully 85% disagreeing and 4% undecided.

The Nursing Homes Report grand jurors responded with none agreeing, and all thirty-three disagreeing.

(2) Immigration and Narcotics

When asked for their responses to the same question only 15% agreed and 55% disagreed. Here 30% of the respondents were undecided, again indicating that in the case of this particular Report it is too early to venture a conclusion.

The grand jurors responded with none agreeing, 80% disagreeing and 20% undecided.

(3) Juvenile Justice System

Here again the Juvenile Justice Report fails to achieve the same high grades as the other two, although the response is still positive: 29% of the experts agreed that this Report "like most Grand Jury Reports, has made little impact upon the issues studied." However 66% disagreed with 4% undecided.

The grand jurors responded with none agreeing, 80% disagreeing and 20% undecided.

(4) Summary

The following table summarizes the responses of the Grand Jurors to the statement "This Grand Jury Report, like most Grand Jury Reports, has made little impact upon the issues studied."

<u>Report</u>	<u>Agree</u>		<u>Undecided</u>		<u>Disagree</u>	
	<u>Experts</u>	<u>G.J.</u>	<u>Experts</u>	<u>G.J.</u>	<u>Experts</u>	<u>G.J.</u>
Nursing Homes	8%	0	4%	0	85%	100%
Immigration/Narcotics	14%	0	30%	20%	55%	80%
Juvenile Justice	29%	0	4%	20%	66%	80%

fully 85% disagreeing and 4% undecided.

The Nursing Homes Report grand jurors responded with none agreeing, and all thirty-three disagreeing.

(2) Immigration and Narcotics

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<u>Report</u>	<u>Agree</u>		<u>Undecided</u>		<u>Disagree</u>	
	<u>Experts</u>	<u>G.J.</u>	<u>Experts</u>	<u>G.J.</u>	<u>Experts</u>	<u>G.J.</u>
Nursing Homes	8%	0	4%	0	85%	100%
Immigration/Narcotics	14%	0	30%	20%	55%	80%
Juvenile Justice	29%	0	4%	20%	66%	80%

B. GRAND JURY REPORTS ON SOCIAL ISSUES

As was mentioned earlier, the propriety and value of Grand Jury Reports in non-criminal matters has been a debated topic nationally. The experts were asked to respond to the statement "The Grand Jury should restrict itself to criminal investigations and should not involve itself in considerations of social issues." Their responses were as follows:

<u>Report</u>	<u>Agreed</u>	<u>Undecided</u>	<u>Disagreed</u>
Nursing Homes	8%	15%	73%
Immigration/Narcotics	0	5%	95%
Juvenile Justice	18%	8%	75%

And when asked in their interviews whether Grand Jury Reports on social issues are worthwhile, 86% felt that they were, 7% felt they were not and 7% were undecided.

C. HOW COULD GRAND JURY REPORTS HAVE GREATER IMPACT?

When they were asked whether Grand Jury Reports generally have much impact, two-thirds of the experts (66%) felt that they did. Twenty-five percent felt they did not, with 3% undecided.

The Grand Jurors were more guarded in their responses to that question: 45% felt they generally had impact, but 48% felt they did not, with 6% undecided.

When asked about the impact of their particular Report, 68% of the experts who responded felt that this Report had more impact than Grand Jury Reports generally, with only 5% answering that it had less impact than Reports generally, with 27% undecided.

Here again the Grand Jurors were more guarded: 58% of the jurors felt their Report had much impact, with 36% responding in the negative and 6% undecided.

When asked specifically how Grand Jury Reports could have greater impact, both experts and grand jurors most often alluded to the need for systematic follow up of previous recommendations. Other responses called for wider dissemination of Final Reports, and the need for a formal mechanism to incorporate findings and recommendations into local and state governmental planning. Several respondents also pointed out that Grand Jury Reports are more apt to have greater impact when they are limited to local, as opposed to state or national, issues.

D. FINAL REPORTS: ASSESSMENT OF GRAND JURORS

The Grand Jurors were asked whether "our Grand Jury Final Report accurately represented the feelings of the majority of Grand Jurors" and ninety percent felt that it had. Ten percent were undecided and none disagreed.

The Jurors were also asked whether the Report "accurately represented my personal feelings regarding the issues discussed" and ninety-seven percent agreed with the statement. None disagreed and three percent were undecided.

Ninety-seven percent of the responding jurors felt they had been provided with "the right materials and witnesses" in the preparation of their Report, and 91% felt these materials and witnesses had been presented "in an objective way which did not unduly influence our thinking." Six percent disagreed with that statement and three percent were undecided. All of the responding jurors answered in the affirmative the question, "Is the relationship between the Grand Jury and the State Attorney's Office a constructive and positive one?"

VI. THE GRAND JURY

As should already be apparent, the responses of both the experts and the former grand jurors are clearly supportive of the grand jury system in Dade County. For example, when

asked to respond to the statement, "The Grand Jury system is not really needed and it should be abolished," only one former grand juror (3%) agreed. Eighty-seven percent disagreed, with nine percent undecided.

And, as has already been mentioned, 86% of the responding experts felt that Grand Jury Reports on social issues were worthwhile. When asked why they felt this way the most frequent responses were "Grand Jury is the conscience of the community" (mentioned in ten responses); Grand Jury "can stir social conscience of the community" (mentioned seven times); "An objective third party review is needed in social service agencies" (also seven times), and "There is no other vehicle that would do this review" (four responses).

Both the experts and the former jurors endorsed random selection: 57% of the experts and 67% of the jurors felt grand juries should be selected randomly with 18% of the jurors and 29% of the experts favoring selective juries.

The grand jurors were also asked to react to the statement, "A six month Grand Jury Term, with once weekly meetings, is a reasonable time period in which to do the work required." Forty-four percent agreed with the statement, thirty percent disagreed and fifteen percent were undecided.

VII. FINDINGS AND RECOMMENDATIONS

(1) We find, first of all, that Grand Jury Reports dealing with matters affecting the well-being of the community are worthwhile and that they generally do have an impact upon the particular problems addressed in the Report.

(2) Yet we note that no formal mechanism exists for determining whether prior Grand Jury recommendations have been acted upon. We therefor recommend that each newly impaneled Grand Jury be provided with copies of the Final Report of the Grand Jury published one year previously so that the new Grand

Jury may determine the extent to which the earlier recommendations have been followed and implemented.

(3) The Final Report of each succeeding Grand Jury should contain a section which assesses the implementation of each of the recommendations made in the Grand Jury Report one year previous.

(4) We have reached our own conclusions regarding the extent of the implementation of the various recommendations contained in the Final Reports we have dealt with:

Nursing Homes: As noted earlier, the Department of Health and Rehabilitative Services took meaningful and aggressive action in response to the 1979 Grand Jury Nursing Homes Report. The Office of Licensure and Certification was reorganized and administrators reassigned. Two-thirds of the experts interviewed by us felt that the creation of the HRS Long Term Care Task Force represented an effective response to the Grand Jury Report. And 70% felt that the "key agencies" (here meaning HRS) had reacted constructively to the Report and that its recommendations were being implemented.

Yet doubt remains regarding the subsequent implementation of several specific recommendations. The majority of experts feel that the current nursing homes rating system is not adequate and does not provide the consumer with sufficient information regarding the quality of life in individual nursing homes. Similar doubts exist regarding implementation of the recommendations "An annual review must be made of all the reports of all the regulatory agencies responsible for nursing homes inspection" and "the need exists for a more sensitive evaluation method which would better assess the quality of life in the homes."

Immigration and Narcotics: Here, it is undoubtedly too soon to venture conclusions regarding the extent of the implementation of the recommendations made in that Report six months ago. Yet, even with this qualification, the experts' responses indicate little or nothing being done in many areas touched upon in the Report: only 10% felt that our federal legislators had assigned a high priority to the development of an equitable immigration policy; ninety percent agreed that the Immigration and Naturalization Service (INS) efforts to control immigration were totally inadequate; only five percent felt that the federal government was taking the initiative to protect us from still unassimilated Mariel refugees and only ten percent felt local officials had undertaken the development of an orderly growth plan for South Florida.

Yet, on a more optimistic note, our study indicates some success in the narcotic interdiction area as a result of the efforts of the Vice-President's Task Force: nearly half of those interviewed felt the Task Force had already made a permanent and positive impact upon drug smuggling in South Florida.

Juvenile Justice: Here the experts indicate that HRS has generally reacted constructively to the Grand Jury Reports dealing with the juvenile justice system and community control.

Yet there are also unmistakable indications that many of the individual recommendations have not been addressed satisfactorily: only one in four respondents felt that the community control program was developing different profiles and strategies for different types of delinquents, and the same percentage felt that the recommendation for dramatic improvement of in-service training had been followed. And only 30% felt that HRS had effectively dealt with the finding that community control violations were often ignored and youths rarely disciplined for violating community control obligations.

(5) An especially troubling response indicates that two-thirds of the experts agreed with the Grand Jury's findings that "effective manpower and training and substance abuse programs either do not exist in this community or, if they do exist, are having little or no impact upon the youthful offenders most in need of such services." Only 23% felt that this recommendation had been acted upon effectively. We are perplexed at this apparent absence of effective rehabilitative programs in our community and we specifically recommend that the Fall Term 1982 Grand Jury address this problem during its Term and include its conclusions in that Grand Jury's Final Report.

(6) The majority of those polled felt that Grand Juries should continue to be selected randomly, as they are now, as opposed to selectively. We agree, and we endorse random selection. Yet we point out, as have so many Grand Juries before us, that the ten dollar reimbursement we receive for each session is totally inadequate. And we, once again, call for an increase in the number of grand jurors from eighteen to twenty-three, or, in the alternative, the quorum should be decreased to thirteen. The requirement that fifteen of eighteen jurors be present for a quorum often renders it difficult to conduct our business, especially when one of the eighteen is not available due to his relocation elsewhere, as happened during our Term.

GUARDIANSHIP

I. INTRODUCTION

During the final weeks of our Term we undertook a study of the process by which persons alleged to be mentally or physically incompetent, and consequently incapable of handling their own affairs, are assigned guardians to protect their personal and property interests.

Our interest in this area was initiated by a letter from an attorney who was concerned with the adequacy of checks and balances in the guardianship process. In the limited time remaining in our Term we elected to (1) review a sample of two hundred guardianship files and (2) to invite a nationally recognized expert, Professor Winsor C. Schmidt of Florida State University, to visit Dade County for the purposes of interviewing the key personnel in the guardianship process and of reporting his observations to us.

We are extremely pleased to report that, while we did identify areas of concern, very commendable efforts have already been initiated to address these concerns. We are particularly grateful to Judge Francis Christie, Administrative Judge of the Probate Division, and to Judges Gene Williams, Harold Featherstone and Edmund Newbold for their cooperation with our study and for their energetic commitment to addressing the areas which we found to be of concern. We are also appreciative of the rapid and effective response of the Office of the Court Administrator in addressing these same concerns, and for the assistance of Donald Curry of the Probate Division Clerk's Office.

II. THE GUARDIANSHIP PROCESS

Guardianship is the process by which Florida law entrusts the custody and control of the person or property, or both, of

an incompetent to another. The appointment of a guardian takes place when the incompetent (or "ward") is adjudged to be incapable of either managing his or her property, or caring for oneself, or both.

The personal consequences of guardianship to the person adjudicated incompetent are substantial. The subject of guardianship may be subject to greater control of his or her life than one convicted of a crime. A person adjudicated incompetent in Florida is statutorily presumed to be incapable of managing his own affairs or of making any gift, contract, or instrument in writing that is binding on him or his estate. In most states, a finding of legal incompetence restricts or takes away the right to: make contracts; sell, purchase, mortgage, or lease property; make gifts; travel, or decide where to live; vote, or hold elected office; initiate or defend against law suits; make a will, or revoke one; engage in certain professions; lend or borrow money; appoint agents; divorce, or marry; refuse medical treatment; keep and care for children; serve on a jury; be a witness to any legal document; drive a car; pay or collect debts; manage or run a business.

Given that the purpose of guardianship is care, and that the consequences of guardianship can be so substantial, the legal process by which one is found to be legally incompetent and a surrogate decision-maker appointed should be careful, fair, and accurate.

In Dade County the process involves at least three critical steps which must be performed effectively and inefficiently if the system is to be ultimately fair and accurate:

(1) The Determination of Incompetency: Florida Statutes section 744.331(5)(a)(1981) provides: "The judge shall appoint an examining committee consisting of one responsible citizen and two practicing physicians who shall not be associated with each other in the practice of medicine. The citizen appointed shall not be associated with, or employed by, either physician. The

examining committee shall proceed to examine the person to ascertain his mental and physical condition within a reasonable time after notice of its appointment."

(2) The Filing of Annual Reports: Florida Statutes sections 744.364, 744.367, and 744.427 (1981) provide for annual physical examination of the ward and requirements to file annual reports about the examination, the personal status of the ward, and the financial status of the ward. The statutory requirements for annual reports provide the only automatic mechanism and source of information for review and monitoring of ongoing guardianships. Once a person has been adjudicated incompetent, and a guardian appointed, the only automatic source of information about the way that management of the person and their property is being carried out is through the annual reports.

(3) Supply of Guardians: A major problem in guardianship is the dearth of guardians for incompetents who have no willing and responsible family members or friends to serve as guardian, or insufficient resources to compensate a guardian. There are, for example, 131 persons from Dade County in Florida's four public mental institutions who have been adjudicated incompetent but have no guardian. Dade County also has a proportionate share of the 1,400 statewide Aging and Adult Services clients who allegedly need to be adjudicated incompetent, but a guardian is not available.

Dade County does have the commendable new Dade County Guardianship Program that is addressing some of this need, but the program cannot fully address the problem without additional staffing.

III. THE GRAND JURY STUDY: FINDINGS AND RECOMMENDATIONS

The Grand Jury study of two hundred randomly selected files chosen from among cases opened from 1979 to 1981 reveals that in nine out of ten cases the guardianship was of both the person and the property of the ward. In only one of four cases

did the alleged incompetent indicate a desire to be present at the competency hearing: the general practice of conducting the hearing with the individual alleged to be incompetent not present raises concern relative to the ward's interest being fully protected and emphasizes the importance of the role of counsel for the alleged incompetent. As will be mentioned below, some critics of the guardianship process contend that counsel for the alleged incompetent do not adequately perform their advocacy function.

Eighty-five percent of the wards in our study were over the age of sixty and fifty-eight percent were over seventy-five years of age. Six of every ten were women. In seven of every ten cases the guardian appointed was a relative of the ward and in two of the cases a non-relative. In the remaining ten percent of cases the guardian was a bank or a lawyer. In 46% of the cases the assets of the ward (control of which, of course, is vested in the guardian) were in excess of \$50,000. In 39% of the cases the assets were below \$50,000 with 15% of the wards being insolvent.

These statistics clearly suggest the basis for concern: elderly persons being divested of control of their assets by a process in which they cannot, or do not, participate, with control of their assets being given to another individual who will, hopefully, act in the ward's interest and not in their own.

The concerns are not without merit: in one instance a 92 year old mentally incompetent woman without relatives or friends, but with a bank account of \$150,000, was found to be living in squalor in an adult congregate living facility since closed for its intolerable living conditions. Her guardian was the owner of that facility, in violation of Florida law. This relationship went unnoticed for two years, due in part to the fact that no annual reports had been filed, until a representative of the Governor's Nursing Home Ombudsman Committee discovered the illegal guardianship. In another case which we

found in our sample, a lawyer for the ward was also appointed as guardian and this lawyer submitted identical billings for the same functions in both capacities in the amount of \$77,000. One billing charged the ward's estate for \$1,018 incurred in an expenditure of three hours time spent purchasing a \$200 clock for the ward. The monies paid the lawyer, of course, came from the ward's estate. These particular monies were never returned to that estate, and two years had elapsed before the irregularities in the billings were discovered.

Our study of the files attempted to address the effectiveness of the three areas singled out in the previous section. Our findings and recommendations follow:

(1) The Determination of Incompetency:

It is clear that the great majority of alleged incompetents are in fact not competent and that they are in need of a guardian. In the overwhelming majority of cases the cause of the incompetency is "organic brain syndrome," an imprecise descriptive which is nevertheless more medically acceptable than the lay definition of "senility." While this condition, whatever its label, is not generally reversible it should be mentioned that an ideal outcome of a guardianship would be a subsequent restoration of competency of the ward. Perhaps predictably, yet at the same time sadly, restorations of competency are virtually non-existent: in only four of our two hundred cases was competency later restored.

And how is competency determined? As we have seen, Florida law calls for an examining committee of three including two doctors and a lay person to interview the alleged incompetent. The practice for the last several years in Dade County appears to be that the same two physicians have been appointed consistently in all guardianship cases. The lay person is one of three individuals (formerly two) who rotate their assignment every four months. These lay examiners possess no particular qualifica-

tions for their role and are employed full time in unrelated vocations. Each examination generates a fee of \$185 (\$75 for each of the two physicians and \$35 for the lay member) and approximately forty to fifty examinations occur each month.

We find no reason to be critical of the skills or qualifications of any of the members of the examining committee. We do find, however, that the need exists to broaden the composition of the examining committee. We also find that the appointment of physicians should not necessarily be limited to the specialty of psychiatry and that more citizens should be given the opportunity to serve as laypersons on the examining committee. Specifically, we recommend that citizens who are recognized in the community as lay advocates for the elderly and developmentally disabled be appointed to examining committees.

The criteria by which the various members of the examining committee reach their diagnoses should be given greater precision and we recommend that a standardized test be selected for this purpose.

We are pleased to acknowledge that prior to the publication of our Report, Judge Francis Christie has executed an Administrative Order broadening the composition of the examining committee.

(2) The Filing of Annual Reports:

As mentioned earlier the statutorily required annual reports relating to the personal and financial status of the ward are the only automatic mechanisms and source of information for review and monitoring of ongoing guardianships.

It is widely acknowledged in Dade County, and confirmed by our review of the files, that the great majority of guardianship files for at least the past four years are incomplete with respect to annual reports. No one even knows the total number of open guardianships. Our study of the two hundred files in our sample revealed that in 87% of the cases the personal annual reports were not up to date and that in 75%

of the cases the financial reports were not timely. In 91% of the cases the physical reports were incomplete.

The seriousness of the substantial shortfall in annual reports cannot be overemphasized. Most guardians either do not know about their report responsibilities, or they are not fulfilling their report responsibilities. Most attorneys for guardians either do not know about the report responsibilities of their guardian clients, or they are not effectively communicating those responsibilities to their clients. The clerk's office has either been unable to inform or remind guardians of their report responsibilities, or has not effectively recognized the significance of such reports sufficiently to remedy the problem.

Several changes have been initiated during the Grand Jury's review of the guardianship process. On October 20, 1982, an individual was assigned from the Administrative Office of the Courts to the Probate Division for the purpose of designing a Probate Accounting System, including a tickler file for use in keeping track of those cases in which an annual report is necessary.

By letter dated October 18, 1982, Mr. Irving Cypen, Chairman of the Video Tape Sub-Committee of the Probate and Guardianship Court Committee of the Dade County Bar, proposed to produce an educational video tape presentation of the duties and responsibilities of a guardian for viewing by persons appointed as guardians.

And, of greatest importance, the timetable for computerization of the Probate Division has been dramatically changed: originally given lowest priority and scheduled for a point in time several years in the future, the Probate Division records are now to be brought on computer in the first quarter of 1983. We are again extremely grateful to Judge Christie for his pursuit of this new prioritization and to the Office of the Court Administrator and Chief Judge Gerald Wetherington for the

implementation of this measure. Computerization will result in the immediate identification of non-existent or incomplete annual reports and will go a long way to assuring accountability in the guardianship process.

Computerization will also permit a cross-indexing of guardians and wards which will enable one to determine how many wards a given guardian has. In the past allegations that unfit or unscrupulous guardians were assigned to numerous wards have not been susceptible to investigation due to the total absence of any system of cross-indexing.

(3) The Supply of Guardians:

As we have mentioned, the lack of guardians, particularly for indigents, is a very real problem. We commend the Dade County Guardianship Program for their efforts at addressing this problem and we make the following recommendations:

(a) An increase in the staffing of the Dade County Guardianship Program so that all of the need can be met, especially of those Dade County public mental hospital patients whose only barrier to discharge from these facilities is the absence of a guardian.

(b) The funding of a pilot public guardianship project for Dade County from the Public Guardianship Program of the State Court Administrator in Tallahassee.

(c) State authorization and funding of public guardianship. Thirty-four states other than Florida have some provision for public guardianship.

(4) In addition the foregoing recommendations in the three areas which we targeted as being of critical importance, we recommend that the newly appointed accountant do a sample audit of property management in guardianship cases, and on the basis of the results from that sample, that the accountant recommend whether it is appropriate to audit every guardianship case.

We also recommend that a gerontologist, habilitation specialist, or other appropriate specialist do a sample audit of the placement and management of the person in guardianship cases, and that on the basis of the results from that sample, that this specialist recommend whether it is appropriate to audit every guardianship case.

(5) In his Report to us, Professor Schmidt included the following:

Florida Statutes section 744.331(4)(1981) provides: "An opportunity to be represented by counsel shall be afforded to every alleged incompetent, and if he cannot afford an attorney the court shall appoint one." Commendably, Dade County has a system by which every alleged incompetent is provided counsel. In my opinion, however, attorneys for alleged incompetents are generally not performing their appropriate role. Reporting possibly inculpatory information, or information against interest, to the court makes the attorney an agent of the court beyond his or her legitimate responsibilities as an officer of the court. The attorney then is more of a "visitor," or guardian ad litem, instead of counsel for the alleged incompetent.

A problem with not adopting a partisan role is that counsel in such mental disability cases as guardianship too readily function "as no more than a clerk, ratifying the events that transpire, rather than influencing them." To the extent that the attorney's findings frequently become the findings of the court, the proper role of of the court making the legal decision about incompetence is usurped. There is not only an ethical responsibility to represent a client zealously within the bounds of the law, but also a legal one. In mental disability cases like guardianship especially, the failure of anyone to represent the wishes and claims of the alleged incompetent renders meaningless the legal presumption of competence and subverts the design of the legal process.

Members of the Florida Bar active in guardianship proceedings who were kind enough to share their views with us disagree and contend that the nature of guardianship proceedings does not always lend itself to the adversary system. We do not

feel qualified to take a position on this issue. But we include Professor Schmidt's position in the hopes that the legal community will address the issue.

(6) The statutory definitions for incompetence are vague and seem to have little consensus as to meaning, especially in application by petitioners, psychiatrists, attorneys and judges. Some have indicated support for substituting "gravely disabled" in place of "incompetent" and adopting the following definitions: "gravely disabled" means "unable to meet essential requirements for one's physical health or safety or to manage one's financial resources as a result of a severe mental disorder"; "severe mental disorder" means "a severe impairment of emotional processes, ability to exercise conscious control of one's actions, or ability to perceive reality or to reason or understand, which impairment is manifested by instances of grossly disturbed behavior." The Florida statutory definition should be addressed so as to deal with these shortcomings.

(7) The idea of partial or limited guardianship should be instituted. Incompetence of person or property is an all-or-nothing situation. Yet many "incompetent" people retain some functional capacities. The legal device of guardianship should be more finely tuned to reflect the needs of individuals rather than preoccupation with the ease of property transfers.

(8) Attorneys for potential incompetents should appropriately advise their clients about such alternatives to guardianship as durable family power of attorney (popularly called the "living will") or of single transaction court ratification of a particular action, such as surgery.

IV. CONCLUSION

The purpose of guardianship is to provide care for persons who are incapable of caring for themselves. Good intentions and preoccupation with the best interests of the ward permeate at

least the theory of guardianship.

Yet as one critic of the value of good intentions and concern with another's best interests put it:

Some paradox of our nature leads us, when once we have made our fellow men the objects of our enlightened interest, to go on to make them the objects of our pity, then of our wisdom, ultimately of our coercion.

We urge the Fall Term 1982 Grand Jury to perpetuate our interest in the guardianship process in Dade County. In making this recommendation we in no way imply that the Judges and public officials involved in the guardianship process are not anxious to effect positive change. They are and we applaud them. But for too long guardianship and competency hearings have been relegated to an obscure back burner in the scale of priorities. This Grand Jury finds that this must never again be the case and we ask that future Grand Juries insure that it is never again the case.

CITY VENTURE

Early in our Term, in response to a request by a concerned citizen, we took testimony and received evidence relating to a contract entered into by the Dade County Private Industry Council and the City Venture Corporation, the latter a subsidiary of the multinational Control Data Corporation, based in Minneapolis. The contract awarded \$380,000 to City Venture for an eight month "Strategy Preparation Phase" for the economic revitalization of Liberty City, with the monies to be distributed gradually to the company as it achieved monthly performance objectives.

In late 1981 and early 1982 it became increasingly evident that City Venture was experiencing considerable difficulty in achieving its goals. Finally, last July, the Private Industry Council and City Venture signed an agreement stating that all contract goals had been met, thus permitting the final \$114,000 payment to the corporation which then left the scene.

The City Venture episode has been alleged by critics to have been characterized at best by a lack of sensitivity to local Black community input and at worst by incompetence and illegality.

Our review of the evidence presented to us, however, suggests absolutely no illegality. While the question of the quality of City Venture's performance is still being debated, and will doubtless continue to be debated in the larger context of the economic development of Liberty City, we find no suggestion of impropriety by either City Venture personnel or by the Dade County officials with whom they dealt.

CAPITAL AND OTHER CRIMINAL CASES PRESENTED TO THE GRAND JURY

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
ROBERTO BORROTO and ANTONIO CRUZ	First Degree Murder ("A" Defendant) Accessory After the Fact ("B" Defendant)	True Bill
JOHNNY STOKES	First Degree Murder Armed Robbery	True Bill
JESUS DEL PINO and ANDRES GARCIA	First Degree Murder First Degree Murder Attempted First Degree Murder	True Bill
JESUS DIAZ	First Degree Murder	True Bill
NATHANIEL WATKINS	First Degree Murder Aggravated Battery	True Bill
JORGE F. MORALES and RAFAEL CARMENATE	First Degree Murder First Degree Murder Robbery Attempted First Degree Murder Trafficking in Cannabis	True Bill
DAVID GERALD LEWIS, GARY ALLAN JENKINSON, ENOCH ALAN DUNCAN and MARYAN LEWIS	First Degree Murder Attempted Kidnapping	True Bill
JOSE ANTONIO LOPEZ	First Degree Murder First Degree Murder Sale or Delivery of a Controlled Substance	True Bill
JAMES FLUCKERS, MARCUS HOWARD, and EDDIE HOGAN	First Degree Murder Robbery	True Bill
WILLIAM THEODORE FISHER	First Degree Murder	True Bill
ENRIQUE CORDOVA LA ROSA	First Degree Murder Attempted First Degree Murder	True Bill
CARLOS SANTYS	First Degree Murder First Degree Murder Aggravated Assault	True Bill
DEREK L. GILBERT	Attempted First Degree Murder	True Bill
DEREK GILBERT and ELIJAH GILBERT	Armed Burglary Grand Theft	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
VICTOR FEIMSTER	First Degree Murder	True Bill
LLOYD GEORGE ROACH	First Degree Murder Armed Robbery Armed Robbery	True Bill
JOSEPH H. ST.CROIX	Second Degree Murder Shooting into an Occupied Building	True Bill
DOROTHY SMITH, ALPHONSO SIMMONS, ANTONIO LEON ROLLE, SABRINA ANN THOMAS, NATHANIEL LEE, and WALTER FERNANDEZ LEE	First Degree Murder Robbery Kidnapping	True Bill
LYLE ROBERTS and STEVEN HOFFMAN	Robbery Attempted First Degree Murder First Degree Murder	True Bill
GREGORY WILLIAMS, ALBERT RUSSELL FRANCIS	Armed Robbery ("A" & "B" Defendants) Carrying a Concealed Firearm ("B" Defendant)	True Bill
ROGELIO IBARRA, ALBERTO VINAS, and ANTONIO GONZALEZ VALDIBIA	Conspiracy to Commit First Degree Murder First Degree Murder	True Bill
GLENN BASTIN	First Degree Murder Attempted Robbery (With a Firearm)	True Bill
BELVIN LEE KING	First Degree Murder	True Bill
JUAN JOSE ALBERTO, and ELIO DIEGUES	First Degree Murder	True Bill
JAY CLARENCE PAUL	First Degree Murder Kidnapping	True Bill
ALEXANDER MacINTYRE, JR.	Sexual Battery	True Bill
BURLEY GILLIAM	First Degree Murder Sexual Battery Grand Theft	True Bill
NICHOLAS CASCIONE, SR.	First Degree Murder	True Bill
MARIO M. MARTINEZ	First Degree Murder First Degree Murder Armed Robbery Attempted First Degree Murder Trafficking in Cannabis	True Bill
ARMANDO MILLARES	First Degree Murder	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
CHARLES HERMANOWSKI	Election Law Violation	No True Bill
LARRY HOGUE	First Degree Murder Armed Robbery Conspiracy to Commit First Degree Murder and Robbery	True Bill
AMILCAR JOSE RODRIGUEZ- JIMENEZ also known as, JAVIER RODRIGUEZ also known as, SELIMO S. GARCIA also known as, "RAFAEL", and AGUEDO BORREGO-ESTRADA also known as, a "CACHO"	First Degree Murder First Degree Murder Conspiracy to Commit First Degree Murder	True Bill
CARL WILKERSON	First Degree Murder	True Bill
LOUIS LAROSE	Lewd Assault	True Bill
EMILIO JULIAN NAVARRO, CARLOS EDWIN CUEVAS, and SONIA CUEVAS	First Degree Murder First Degree Murder Armed Robbery Kidnapping Kidnapping	True Bill
ARTHUR DOREY, NORMAN DiCOSTANZI, and FRANK OTTOMANELLI	First Degree Murder Accessory After the Fact	True Bill
ALLAN ALLEN	Aggravated Battery First Degree Murder	True Bill
JOSEPH LATIMORE and FRANKIE LATIMORE	First Degree Murder Robbery Burglary of Structure	True Bill
JOSE JOAQUIN GARCIA, SR.	First Degree Murder Robbery Kidnapping	True Bill
JORGE CRESPO also known as, ALBERTO QUINTANA also known as, "PILLIN"	First Degree Murder	True Bill
VALERIO PEREZ FUNDORA	First Degree Murder Attempted First Degree Murder Carrying a Concealed Firearm	True Bill
CRISTOBAL VALDEZ-HERRERA and JOSE RAMON CONTINO	First Degree Murder Burglary of a Conveyance	True Bill
MICHAEL ULLOA	First Degree Murder	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
PATRICK JORDAN	Sexual Battery Kidnapping	True Bill
PATRICK JORDAN	Sexual Battery Kidnapping	True Bill
VICTOR MANUEL GARCIA and JOSE ADAMS ADAN	First Degree Murder	True Bill
TINA KAY SHEPHERD and JOHN RAY RADFORD	First Degree Murder Attempted First Degree Murder Conspiracy to Commit First Degree Murder Robbery	True Bill
LIONEL CARL JACKSON	Sexual Battery Sexual Battery Sexual Battery Sexual Battery	True Bill
REHOLGA MACK also known as, REHOLGA MACK WOODY, and DWIGHT ROY ECHEVARRIA	First Degree Murder Armed Robbery Armed Robbery Armed Robbery Grand Theft/Second Degree Accessory After the Fact Unlawful Possession of a Firearm by Convicted Felon	True Bill
CARLOS RUIZ	First Degree Murder	True Bill
SALOMON CASTILLO	First Degree Murder	True Bill
VARGAS VILA JIMENEZ	Sexual Battery	True Bill
JOHN SMITH	First Degree Murder Robbery	True Bill
TERRY CAUTHEN	Sexual Battery	True Bill
GOLDWIRE ANDERSON	First Degree Murder Robbery Robbery	True Bill
RODNEY LEE HARRIS	First Degree Murder	True Bill
GEORGE LEWIS TROUTMAN	First Degree Murder	True Bill
JIMMY FRED WHITE	First Degree Murder	True Bill
MARK ROGER LOUIS, and ESPERANCE PHILIPPE	First Degree Murder	True Bill
EDDIE DEAN HILL	First Degree Murder	True Bill
HENRY WILLIAMS	First Degree Murder Burglary Grand Theft	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
JOSEPH WAYNE NIMETH	Sexual Battery Keeping House of Ill Fame Living off the Earnings of a Prostitute	True Bill
REGINALD EUGENE DOBSON and MARVIN HOWARD TAYLOR	First Degree Murder Attempted Armed Robbery	True Bill
RENE HERRERA	First Degree Murder	True Bill
STANLEY ALEXANDER ROKER	First Degree Murder	True Bill
FREDDIE LEE HOLMES	First Degree Murder	True Bill
ALUMINADA SANCHEZ also known as MINNIE SANCHEZ	First Degree Murder	True Bill
DWIGHT BRIAN SAMUELS and RONALD GARMON	First Degree Murder Attempted Armed Robbery	True Bill
OLGA ROMANI, ROGELIO IBARRA, ALBERTO VINAS and ANTONIO GONZALEZ VALDIBIA	Conspiracy to Commit First Degree Murder First Degree Murder	True Bill
JAMES B. HEARD	Sexual Battery	True Bill
PETER PEPLER	First Degree Murder	True Bill
MARSHALL MERIEDY	Manslaughter	No True Bill
EARL B. HILL, JR.	First Degree Murder Robbery	True Bill
ANTONIO RAMON ORTIZ	First Degree Murder	True Bill
LEE JOHNSON also known as TERRY LEE JOHNSON	First Degree Murder	True Bill
EZEL GORDON and ILYAS GORDON	First Degree Murder	True Bill
MIGUEL MACIAS also known as COCO	First Degree Murder First Degree Murder Robbery Attempted First Degree Murder Trafficking in Cannabis	True Bill
MIGUEL MACIAS also known as COCO, and OVIDIO FABRE	First Degree Murder Attempted Kidnapping Burglary of Structure Falsely Impersonating Officer	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
EDUARDO SALAZAR	First Degree Murder Grand Theft	True Bill
MARIO ENRIQUE DELGADO- SANTOS	First Degree Murder Armed Robbery	True Bill
CLARENCE EDWARD FREDERICK	First Degree Murder First Degree Murder Armed Robbery Armed Robbery	True Bill
RALPH CARLTON WRIGHT and CRAIG JOHNSON	First Degree Murder Armed Robbery Armed Robbery Kidnapping Kidnapping	True Bill
COY LEE SMITH also known as "WACO"	First Degree Murder	True Bill
FREDIS MORAGA	First Degree Murder Burglary Robbery	True Bill
LOVIE JAMES McKINNEY also known as JAMES REESE, and LORENZO BROWN	First Degree Murder Attempted Armed Robbery	True Bill
MARCOS MARTINEZ	First Degree Murder Robbery	True Bill
MARK ROGER LOUIS and ESPERANCE PHILIPPE	First Degree Murder	True Bill
RENE S. RAMOS	First Degree Murder	True Bill
JOSE JOAQUIN GARCIA	First Degree Murder	True Bill
JEROME NELSON, DARYL GREEN and TOMMY LEE WILLIAMS	First Degree Murder (Felony Murder) Armed Robbery Aggravated Assault	True Bill
KENNETH WARD, JIMMY MAYS and CLIFFORD DARDEN, JR.	First Degree Murder Armed Robbery Conspiracy to Commit First Degree Murder and Armed Robbery	True Bill
REGINALD WRIGHT, WAYNE TARVER and MICHAEL CUNNINGHAM	Armed Robbery Burglary of Conveyance Armed Robbery Armed Kidnapping Armed Sexual Battery	True Bill

<u>Defendant</u>	<u>Charge</u>	<u>Disposition</u>
ALAN RUDOLPH GRANT	First Degree Murder Armed Robbery	True Bill
LAWRENCE JAY GREENBERG and NYLA NANCY PETRUCCIONE	First Degree Murder Attempted Robbery	True Bill
RENE S. RAMOS	First Degree Murder Aggravated Assault	True Bill
BARBARITO TORRES	First Degree Murder Unlawful Possession of Firearm while Engaged in a Criminal Offense	True Bill
EVELYN RIVERA VELAZQUEZ	First Degree Murder Burglary with Assault Grand Theft	True Bill
JESUS IBARRA	First Degree Murder Attempted First Degree Murder Attempted First Degree Murder	True Bill
LAZARO GARCIA	Second Degree Murder	No True Bill

ACKNOWLEDGMENTS

As we come to the close of our term as Grand Jurors, the members of the Spring Term of the 1982 Dade County Grand Jury would like to express our sincere thanks to his Honor, Judge Leonard Rivkind.

Our special thanks to Janet Reno, State Attorney for Dade County, who has proven to be a professional counselor with complete objectivity in her dual roles as prosecutor for the State and interpreter of the law and procedures in the complex process of jurisprudence.

We are grateful to Chief Assistant State Attorney Tom Petersen who performed his trust as our legal guide in the presentation of the State's cases in an exemplary manner. We were very fortunate to have the expert guidance and the benefit of his experience. We thank him for his understanding and dedication in working with the Grand Jury.

We would also like to acknowledge all of the investigative agencies for their help provided to us during our term.

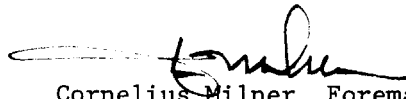
The Grand Jury was very fortunate to have the continued services of our Administrative Assistant Madeline Camp, who is highly qualified and very competent. Words cannot express our appreciation for her unfailing cooperation and thoughtfulness to us. Madeline, thank you for your ever present smile and your extraordinary help.

Our special thanks to our Bailiff Sam Karlin for his ever necessary support and services, for his concern and thoughtfulness.

We are also grateful to Dr. Geoffrey P. Alpert, Professor Winsor C. Schmidt, and Marilyn Blumberg for their assistance, as well as Rafael Martinez, Maryam Sedghy and Barbara Foley. Their dedicated assistance was of great importance to us.

We are pleased to have been selected to serve our community. Grand Jury service is a public duty which each of us found an enlightening and memorable experience.

Respectfully submitted,


Cornelius Milner, Foreman
Dade County Grand Jury
Spring Term 1982

ATTEST:


Amparo Rico Ayuso
Clerk

DATE: November 9, 1982