

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

FALL TERM A.D. 1993

FINAL REPORT OF THE DADE COUNTY GRAND JURY

FILED

May 11, 1994

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## CRIMINAL JUSTICE IN DADE COUNTY : ON THE EDGE OF AN ABYSS

### I. INTRODUCTION

During our term, our community and our nation debated Singapore's planned "caning" of a young American as punishment for defacing a number of automobiles. Some praised the idea and suggested our country consider using it. Others were scornfully outspoken, decrying what they termed a barbarous practice. Underscoring this debate was the frustration many felt with our inability to effectively punish criminals or deter crime.

As grand jurors, we have individually and collectively experienced many of these same emotions. We have felt them when we reviewed cases for indictments. We have felt them as we listened to testimony concerning the issues pertinent to this report. We have felt them when we visited our local jail facilities. Our grand jury service immersed us in a world previously unknown to us. It has provided us with new insights into the problems facing our state and local criminal justice systems. It has forced us to reexamine and reevaluate many deeply held beliefs about crime and punishment. It has confirmed our worst nightmares. Our system of justice is truly broken, but, like Nero's fiddling over a burning Rome, our state legislature has historically pretended it is not.

As we present this report, our state legislature has just completed its latest session. They have passed legislation to build 17,033 prison beds. They have promised that prisoners will serve more of their prison sentences. They have claimed to be "tough on crime" and they have claimed to have accomplished all of this without raising our taxes. Many previous legislatures have claimed the same thing. These have been the messages Floridians seem to want. Yet, by requiring the Florida Legislature to get "tough on crime" without raising taxes, we have forced them to use "slight-of-hand" tricks rather than substance as the necessary tools of their trade. As a result, every legislative session that "solved" our state prison crisis did so knowing that the number of prison beds being built was insufficient, that the problem would need to be repeatedly

- addressed and that the "solution" was in reality, no solution at all.

- Ominously, with each of these "solutions", the legislature  
has shifted more and more of the burden of incarcerating,  
- rehabilitating and punishing felons from the state prison system  
to our local community resources. Like ripples in a pond, these  
- burdens have permeated every part of our local criminal justice  
system, reducing resources and lowering effectiveness. Now, like  
- a tidal wave, the cumulative effect of these added burdens on our  
justice system are threatening to engulf it.

- Since this report will be issued after the completion of the  
legislative session, we decided we could best serve our community  
- by focusing our attention on our local criminal justice system  
and studying the cumulative effects of these recent legislative  
- "solutions". As a result of this shift in burdens, most  
sentenced felons from Dade County will remain here during their  
- sentence or will return here shortly thereafter. If our local  
criminal justice system has not rehabilitated them, if they have  
- not been deterred from committing further criminal acts, the  
citizens of Dade County will be the ones to suffer as victims of  
- crimes and financially as taxpayers.

## - **II. EARLY PRISON RELEASE: THE VICTIMIZATION OF DADE COUNTY**

- When the Florida Legislature considers the cost of  
preventing early state prison release, that cost is measured in  
- the dollars and cents it takes to build more prison beds. When  
our community considers the cost of early prison release, we  
- measure it in the pain and suffering of crime's victims. During  
fiscal year 1992-1993, the Florida Department of Corrections  
- (DOC) released over 25,000 inmates before the expiration of their  
prison sentence. Shamefully, many of these inmates quickly  
- committed new crimes that would not have occurred if they had  
been in prison serving their sentences.

- We decided to evaluate the specific effect early prison  
release had upon the citizens of our community. To do this, we  
- obtained a list of all prisoners from Dade County released early  
from state prison during the month of January of 1992, a total of

addressed and that the "solution" was in reality, no solution at all.

Ominously, with each of these "solutions", the legislature has shifted more and more of the burden of incarcerating, rehabilitating and punishing felons from the state prison system to our local community resources. Like ripples in a pond, these burdens have permeated every part of our local criminal justice system, reducing resources and lowering effectiveness. Now, like a tidal wave, the cumulative effect of these added burdens on our justice system are threatening to engulf it.

Since this report will be issued after the completion of the legislative session, we decided we could best serve our community by focusing our attention on our local criminal justice system and studying the cumulative effects of these recent legislative "solutions". As a result of this shift in burdens, most sentenced felons from Dade County will remain here during their sentence or will return here shortly thereafter. If our local criminal justice system has not rehabilitated them, if they have not been deterred from committing further criminal acts, the citizens of Dade County will be the ones to suffer as victims of crimes and financially as taxpayers.

## **II. EARLY PRISON RELEASE: THE VICTIMIZATION OF DADE COUNTY**

When the Florida Legislature considers the cost of preventing early state prison release, that cost is measured in the dollars and cents it takes to build more prison beds. When our community considers the cost of early prison release, we measure it in the pain and suffering of crime's victims. During fiscal year 1992-1993, the Florida Department of Corrections (DOC) released over 25,000 inmates before the expiration of their prison sentence. Shamefully, many of these inmates quickly committed new crimes that would not have occurred if they had been in prison serving their sentences.

We decided to evaluate the specific effect early prison release had upon the citizens of our community. To do this, we obtained a list of all prisoners from Dade County released early from state prison during the month of January of 1992, a total of

151 inmates. We first determined what percentage had been serving prison sentences for first degree felonies such as armed robbery, armed burglary and kidnapping; second degree felonies such as burglary of a dwelling, aggravated battery and strong-arm robbery or third degree felonies such as grand theft, aggravated assault and burglary of a structure. The vast majority had been sentenced to prison for first degree and second degree felonies.

TABLE I

Degree of Crime Sentenced to Prison For

<i>First Degree Felony</i>	<i>38%</i>
<i>Second Degree Felony</i>	<i>46%</i>
<i>Third Degree Felony</i>	<i>16%</i>

We then studied whether any had been rearrested during the time that would have remained on their prison sentences. We limited this study only to those rearrests occurring in Dade County. The results were shocking. Of the 151 released early from the state prison system, almost 56 percent were arrested for new crimes.

The differences between the severity of their original crime and the severity of the new crime showed a clear and horrifying pattern. More than half were rearrested for new crimes equal to or greater than the severity of the crimes for which they went to prison. An incredible 86 percent of these new crimes were felonies.

TABLE II

Comparison of Type of Crime Sentenced On  
and Type of New Crime Rearrested For

<i>Degree of Felony Sentenced On:</i>	<i>First Degree Felony</i>	<i>Second Degree Felony</i>	<i>Third Degree Felony</i>	<i>Misdemeanor</i>
<i>First Degree</i>	<i>32%</i>	<i>39%</i>	<i>22%</i>	<i>7%</i>
<i>Second Degree</i>	<i>18%</i>	<i>43%</i>	<i>22%</i>	<i>17%</i>
<i>Third Degree</i>	<i>25%</i>	<i>44%</i>	<i>12%</i>	<i>19%</i>

More frightening was the swiftness with which these new crimes occurred after release from prison. After only three months, 41 percent of these new crimes had already been



committed. More than half of the new crimes had already occurred after seven months.

TABLE III

*Period of Time Before Rearrest  
Following Early Release From Prison*

<u>Number of Months From Date of Release</u>	<u>Percentage of 84 Arrested for New Crimes</u>	<u>Cumulative Percentage Arrested for New Crimes</u>
0 - 3 months	41%	41%
4 - 7 months	18%	59%
8 - 12 months	10%	69%
13 - 18 months	12%	81%

Historically, almost every recent legislative session has contained promises of more prison beds, promises to "get tough on crime" and promises to return to our community the crime free environment every one of us desires and deserves. Despite successive legislative sessions and despite these promises, early released state prisoners continue to victimize our community. The effect of the January 1992 early release of 151 prisoners is clear. A substantial number of serious offenders were returned to our community to victimize 84 of our family, friends and neighbors.

The cost of crime does not end with the pain and suffering of victims. Crimes committed by early-released state prisoners also drain the finances of our local community. We pay to arrest these new offenders. We pay to house them pretrial. We pay to prosecute them anew. Each new offense adds an additional "last straw" to the back of our already over-burdened local criminal justice system.

**III. A FORCED SHIFT IN SENTENCING PRIORITIES**

There are two separate and distinct correctional systems within the State of Florida: the state prison system which is located throughout Florida and funded by state monies; and the local, county jail system which is mostly funded by local taxes. The sentence given to a defendant for a conviction will determine to which of these systems that defendant will go. A sentence of one year or more will result in a defendant serving that sentence

in a state prison. A sentence of 364 days or less will result in a defendant serving that sentence in the Dade County jail. Unlike the state prison system, Dade County has had the foresight to build enough jails to keep up with its increasing jail population. This foresight has had an unusual and unforeseen result; because overcrowding is not as severe as with state prisons, a defendant sent to the Dade County Jail serves a greater percentage of that sentence than a defendant sentenced to the state prison.

Witnesses have told us that because of early release, a defendant sentenced to state prison for four (4) years will serve less actual time in prison than a defendant sentenced to 364 days would in the Dade County Jail. Witnesses have also told us that as a result judges, in an effort to ensure criminal offenders serve as long a sentence as possible, are having to creatively sentence some defendants to "county time" in the Dade County Jail rather than state prison. We were amazed by this. Before we became Grand Jurors, we thought that criminals who commit felonies should and would be sentenced to state prison. Sentencing them to the Dade County Jail was, in our minds, a lenient sentence and certainly not a "tough on crime" response. The reality, we discovered, was that sometimes sentencing a felon to state prison is a faster way to return them to our streets.

The judges who testified before us expressed frustration with their inability to meaningfully incarcerate felons. All have sentenced defendants to the Dade County Jail rather than state prison in order to keep deserving felons off the streets. All did this to properly protect the people they serve. All have had to defend their actions against criticisms of being "soft on crime". Before our grand jury service, we would have joined in these criticisms. We know better now. We applaud these judges for having the fortitude and dedication to do what is right regardless of public criticism. We also condemn our legislature's short-term "solutions" that have perpetuated this sentencing fraud on the public.

To understand the effect of this shift in sentencing priorities on our local community resources, we obtained the sentencing disposition of all 21,414 cases closed in Dade County during 1993. More than half of these cases were third degree felonies. Together, third and second degree felonies comprised almost 90 percent of the total.

TABLE IV

<i>Type of Felony Sentenced On As a Percentage of Total</i>	
<i>Capital or Life Felony</i>	<i>1%</i>
<i>First Degree Felony</i>	<i>12%</i>
<i>Second Degree Felony</i>	<i>29%</i>
<i>Third Degree Felony</i>	<i>58%</i>

We then studied the disposition by the type of sentence given. The results support the testimony we have heard. Almost 80 percent of the defendants sentenced for felonies in 1993 did not go to state prison.

TABLE V

<i>Disposition of All 1993 Dade County Felony Cases As Percentage of Total</i>	
<i>Type of Sentence</i>	<i>Percentage of Total</i>
<i>State Prison</i>	<i>21%</i>
<i>Dade County Jail</i>	<i>50%</i>
<i>Probation or Community Control</i>	<i>28%</i>

We next studied the sentence given for each type of felony. Not unexpectedly, the results showed that the higher the severity of the crime, the greater the likelihood of a state prison sentence and the less severe the crime, the greater the likelihood that a local sentence would be given.

TABLE VI

<i>Comparison of State and Local Sentences by Type of Felony</i>		
	<i>State Prison</i>	<i>Dade County Jail/ Probation/Community Control</i>
<i>Capital/Life Felony</i>	<i>74%</i>	<i>26%</i>
<i>First Degree Felony</i>	<i>58%</i>	<i>42%</i>
<i>Second Degree Felony</i>	<i>24%</i>	<i>76%</i>
<i>Third Degree Felony</i>	<i>13%</i>	<i>87%</i>

A substantial number of felons will remain in Dade County either by detention in the Dade County Jail or by release into our community on probation or community control. The years of neglect of our state prison system have created a situation where only the most serious and violent criminals receive a state prison sentence. Early prison releases have thus claimed an additional victim; the ability of our local criminal justice system to effectively utilize state prison sentences to protect our community.

#### IV. THE SENTENCING GUIDELINES

Prior to 1983, the prison sentences our criminal court judges could impose upon a defendant convicted of a felony were limited only by the maximum sentence prescribed by law. Effective October 1, 1983, our legislature changed this by enacting the Florida Sentencing Guidelines. The guidelines' original purpose was to provide uniform sentencing throughout the State of Florida and reduce the population heading for state prison because of overcrowding. These sentencing guidelines limited the maximum prison time judges could utilize in their sentencing.

The sentencing guidelines have become a legislative tool for state prison population control. Witnesses have told us that each successive legislative "reform" of these guidelines by the legislature has reduced the number of felony offenders eligible for sentencing to state prison. These changes have resulted in an increase in the number of felony offenders sentenced to local jails or placed on probation. Yet again in May of 1993, our legislature "reformed" the sentencing guidelines. Witnesses have told us that this latest change, effective January 1, 1994, has virtually eliminated certain classes of felonies from even the possibility of a state prison sentence. Crimes such as bribery, forgery, perjury, burglary (unoccupied), aggravated assault, carrying a concealed firearm and battery on a law enforcement officer, have all been deemed by the legislature to be undeserving of a state prison sentence. This makes no sense. Without the sentencing guidelines, all of these crimes have a

maximum prison sentence ranging from five years (for third degree felonies) to fifteen years (for second degree felonies). Under the new sentencing guidelines, defendants who commit these crimes after January 1, 1994, may only receive local jail sentences and/or probation.

The Florida Department of Corrections summed up these effects in its September 1993 Information Manual:

"The state's new sentencing guidelines, effective January 1, 1994, more clearly defines which felons should receive state prison sentences, and which can be appropriately diverted to community-based programs and supervision....This allows the most violent felons to serve longer prison terms, while non-violent offenders are diverted into treatment, education and other rehabilitative programs in the community."

The legislature, acting under the guise of "getting tough on crime", has in reality gotten "tough on only some crimes". It has essentially attempted to solve the state's prison overpopulation problems by shifting the burden of incarceration, rehabilitation and punishment for a substantial number of felons from the state prison system to local community resources.

#### **V. PLEA BARGAINING**

Throughout our term, witnesses have consistently referred to plea bargaining as a "necessary evil". Everyone who testified before us expressed their distaste for this practice, a feeling we overwhelmingly shared. Before we came to our grand jury service, all of us saw plea bargaining as the best example of the defects in our system of justice. We thought of it as a perverse public auction where criminal cases were bid to the lowest possible sanction. We felt that the removal of plea bargaining would strengthen our criminal justice system. We were amazed to learn that exactly the opposite was true. So many new felony cases enter our local criminal justice system each year that, without plea bargaining, many guilty defendants would receive no punishment at all for their crimes. Simple arithmetic explains the reasons.

By law, absent a delay attributable to the defendant, every criminal case must be brought to trial within approximately 180

days from the date of arrest. Known as the "speedy trial rule", this requirement protects a defendant's constitutional right to a speedy trial by providing for the dismissal of any case violating this rule. In 1993, Dade County's criminal justice system handled over 48,000 felony criminal cases. Dade's 21 felony trial divisions set 31,000 of these cases for trial, an average of 28 each week. Witnesses have told us that each judge could only try, at best, two of these cases each week. Assuming an even distribution of these 31,000 cases among the 21 trial divisions and assuming each case was only set for trial once, each judge would have a full year's worth of backlogged cases after only four weeks. Dade County's criminal justice system would grind to a halt and a substantial number of criminal cases would be dismissed under the speedy trial rule. Clearly, a lack of plea bargaining would allow many more criminal cases to be dismissed and many more guilty defendants to go free.

TABLE VII

Analysis of Impact of Removal of Plea Bargaining

	<u>Number of New Cases Set For Trial</u>	<u>Number of Cases Carried Over From Previous Week</u>	<u>Total Number of Cases to Be Tried</u>	<u>Number of Cases Tried</u>	<u>Number of Cases Carried Over To Next Week</u>	<u>Number of Weeks Needed to Try Remaining Cases</u>
1st Week	28	0	28	2	26	12 weeks
2nd Week	28	26	54	2	52	26 weeks
3rd Week	28	52	80	2	78	39 weeks
4th Week	28	78	106	2	104	1 year

Having more judges could alter this situation, but such a solution lies beyond local control. The legislature controls the number of judges Dade County is permitted to have. For many years, numerous requests have been made to the legislature for sufficient additional judges to eliminate the overloaded caseloads that necessitate plea bargaining. Unfortunately, these requests have fallen upon deaf ears. In the most recent legislative session, Dade County only received two additional circuit court judges, far fewer than the number needed to reduce the necessity for plea bargaining. The legislature's continued failure to address this problem has guaranteed plea bargaining a place in our criminal justice system. This must change. There

is no greater incentive to the commission of crime than a criminal's knowledge that the justice system is too overburdened to adequately punish him.

## VI. LOCAL SENTENCING ALTERNATIVES

Our studies have shown that second and third degree felonies comprise almost 90 percent of our local felony cases. The overcrowding of our state prison, the resulting shift in sentencing priorities and the recent changes to our sentencing guidelines have essentially removed state prison as a sentence for most of these crimes. We are left with only a few major sentencing alternatives for these felony offenders: the Dade County Jail and probation or community control. Within the limited time available to us this term, we decided to examine each.

### a. Dade County's Jails

Unlike the state prison system, which is only concerned with the incarceration of sentenced felony offenders, our local jails perform many different tasks. They handle the intake and booking of every person arrested for any crime, misdemeanor or felony, committed in Dade County. They handle the detention of all defendants pending trial in Dade County who have not been released from jail on bond or another form of pretrial release. They also handle the incarceration and rehabilitation of every defendant in Dade County who is sentenced to 364 days or less in jail. The volume of inmates passing through Dade County's jails is astounding. In 1993, more than 140,000 persons flowed through its facilities.

The changes in sentencing forced upon our local criminal justice system will send more felons to the Dade County Jail. Unfortunately, the present ability of Dade County's jails to house sentenced offenders is extremely limited. In January of 1994, the total population held in these jails was 6,102 inmates, of which 5,721 were male and 381 were female. Only one third of this population were defendants sentenced to jail. The remaining two-thirds were defendants who were being held pending

trial. This situation is not unique to Dade County and exists throughout the rest of the state.

"As of October 1993, at least twenty-one (21) Florida counties had over seventy percent (70%) of their county detention facility average daily population consisting of pretrial detainee [sic]. During the same time, at least another twenty-two (22) Florida counties had over sixty percent (60%) of their county detention facility average daily population consisting of pretrial detainee [sic]. These numbers indicate that for these Florida counties, jails are being used primarily as pretrial holding cells rather than as an incarcerative place where criminal offenders "2 serve their judicially imposed punitive sentences.

The present capacity of all of Dade County's jails is just over 6,000 beds. With two-thirds of that total currently being utilized for pretrial detainees, we can only expect to house 2,000 sentenced defendants in the Dade County jails at any given time.

In our study of all felony cases closed in Dade County in 1993, half resulted in a sentence to the Dade County Jail. Almost 70 percent of these were for third degree felonies. Witnesses told us that the recent changes by our legislators to the sentencing guidelines will result in more second degree felons and even first degree felons being sentenced to the Dade County Jail rather than state prison. Where will we put them? Even if the entire present capacity of Dade County's jails housed only sentenced felony offenders, it still would not be enough. The local burden of handling these additional offenders will cause the same gridlock and overpopulation problems experienced by our state prison system. We foresee the beginnings of a new jail overcrowding crisis resulting yet again in early releases, but on a local level.

As private citizens, we had always thought that criminals were sentenced to jail for punishment. As grand jurors, we have learned that this is not the case. Witnesses told us that the simple loss of liberty was the only real punishment exacted by incarceration. We feel that for many criminals this would not, by itself, stop them from committing further crimes. As we considered the use of jail as a deterrent to crime, we realized



that we all had different conceptions of what our jails were like. Some of us pictured dark, foreboding institutions with rows of steel bars. Others of us pictured country clubs with air conditioning and cable television. We decided to visit our local jails to see for ourselves what they offered regarding deterrence and rehabilitation. Two of those we visited, the Turner-Guilford-Knight Correctional Center (TGTK) and the Pre-Trial Detention Center (Main Jail) were indicative of the surprising differences we found to exist.

TGTK was built in 1989 and designed to be a "third generation" jail, utilizing electronic security measures to reduce the amount of needed staff and thus the cost of running it. Unfortunately, mistakes by the contractor selected to build this facility left most of these security devices inoperative. All electronic devices are now in the process of being repaired or replaced and should be fully operational within one year. The facility housed approximately 1000 inmates, 40 percent of whom were unsentenced defendants. Our initial impression of this jail was that it was far too pleasant a place to house criminal defendants. We were not surprised to learn that within Dade County's jail system, a stay at TGTK was a preferred inmate assignment. However, as we toured this jail, we realized that while the atmosphere was not a punishing one, it was an atmosphere conducive to rehabilitation.

The Metro Dade Department of Corrections and Rehabilitation is utilizing TGTK to support the rehabilitation efforts of the successful Drug Court and other drug programs. This is consistent with a recommendation of the Fall Term 1988 Grand Jury. We feel that jails of this type should only be utilized for such purposes. The "country club" like conditions would clearly send the wrong message to the more violent and incorrigible criminal offenders. It is dismaying that our criminal justice system provides such superior living conditions for criminals while many Dade County residents endure with much less. Nevertheless, we recognize that rehabilitation has to start from within the offender. It cannot be forced upon them.

- As a result, we are willing to tolerate jails such as TKG so long  
- as their use is limited to this purpose.

- The Main Jail was no country club. It was built in 1960 as  
- a maximum security facility located behind the Richard E.  
- Gerstein Criminal Court Building. This is the oldest jail  
- currently being operated by Dade County, housing approximately  
- 2000 inmates most of whom are awaiting trial. It was a  
- frightening place. It reminded us of an old fashioned zoo, with  
- steel barred cages separating "us" from "them". The noise level  
- was deafening. None of us could imagine living there. None of  
- us could even imagine working there.

- With the exception of juveniles being held for trial as  
- adults, all of the inmates in this facility remained in their  
- cells all day, every day, except for visits to court, visits by  
- defense counsel or one hour per day permitted for recreation.  
- Although there were educational staff and programming within the  
- building, they were utilized almost exclusively by juvenile  
- inmates. The correctional staff we spoke to during our visit  
- unanimously recognized the shortsightedness of simply housing  
- these inmates without making any attempt to rehabilitate them.  
- However, there was no available space within the building for the  
- location of programs to accomplish this. All of these defendants  
- were simply being "warehoused". We were surprised at our  
- reactions to this jail. We had expected to feel pleased at its  
- primitive conditions, its strong message of deterrence and its  
- "punishment" of those housed inside. We felt none of these  
- emotions. Instead, we left feeling that this jail would inspire  
- future violence, not deter it. Nevertheless, a "punishing"  
- environment such as this clearly has its place in our criminal  
- justice system.

- The maximum sentence in a Dade County jail is one day less  
- than a year. Everyone sentenced there will get out. This  
- reality makes what occurs while they are in jail of overwhelming  
- importance. Unfortunately, two thirds of our local jail capacity  
- is needed to house unsentenced defendants who cannot be required  
- to participate in rehabilitative programming. As a result, our

present ability to utilize our local jails as vehicles to rehabilitate sentenced felony offenders is virtually nonexistent.

b. Probation And Community Control

Probation is "A court-ordered term of community supervision under specified conditions for a set period of time not to exceed the maximum sentence for the offense of conviction."<sup>3</sup> Community Control is "Intensive court-ordered supervision in lieu of prison involving quasi-confinement of convicted felons to their homes with numerous monthly contacts by officers having restricted caseloads. At the direction of the court or election by the Department, Community Control may involve electronic monitoring of offenders."<sup>4</sup> Both programs are administered and funded by the State of Florida.

Probation and community control were originally intended for the supervision and rehabilitation of our least serious felony offenders. Ominously, witnesses have told us that, again as a direct result of the impact of our state prison overcrowding and resulting early release, more serious offenders are becoming a part of the caseload of these programs. A comparison of the probation and community control caseloads statewide in 1984 and 1993 clearly confirms this fact.

TABLE VIII

*Change in Type of Felony As A Percentage of Total Probation  
& Community Control Caseloads (Statewide)*

	<i>1984 - 1993 Rate of Change</i>
<i>1st Degree felony</i>	<i>+23%</i>
<i>2nd Degree felony</i>	<i>+26%</i>
<i>3rd Degree felony</i>	<i>-10%</i>

Our study of Dade County felony cases closed in 1993 revealed that 28 percent resulted in a sentence of probation or community control. A close examination of the sentencing

disposition of the other Dade County felony cases closed that year reveals that a substantial number of defendants originally sentenced to either state prison or the Dade County Jail will eventually end up on probation or community control as well.

TABLE IX

*Disposition of Dade County Felony Cases in 1993  
Resulting in Probation or Community Control*

<i>Probation/Community Control</i>	<i>28%</i>
<i>State Prison Followed by Probation/Community Control</i>	<i>5%</i>
<i>Dade County Jail Followed by Probation/Community Control</i>	<i><u>8%</u></i>
<i>Total</i>	<i>41%</i>

Adding to this total are the early released state prisoners who become part of the local probation caseload after their release for the period of time remaining on their sentence. The effectiveness of the supervision these defendants will receive will have a great impact upon the safety of our community.

Dade County presently has 14,000 felony offenders on probation or community control, an increase from the 9,000 offender caseload of 1991. Depending on the type of offender, the caseload of an individual probation officer will vary between 110 and 140 probationers. This caseload is even higher than that examined by the Spring Term 1986 Grand Jury when it wrote:

"Probation is the most common sentence in our criminal courts. Many inmates released from incarceration back into the community are placed on probation or parole. As jails and prisons become more crowded, more offenders are released on probation or parole. Probationers require intensive supervision and surveillance....In Dade County, the present caseload of probationers per probation officer is approximately 85-100. This burdensome caseload must necessarily make effective supervision virtually impossible."<sup>5</sup>

We decided to examine the effectiveness of these programs in Dade County. We obtained the records of all 5,368 defendants in Dade County who were sentenced to probation or community control for a felony between July 1, 1992 and May 30, 1993. Slightly more than half of these defendants had been sentenced for the

commission of third degree felonies.

TABLE X

Type of Crime Sentenced On As Percentage  
of Total Sentenced to Probation/Community Control

<i>First Degree Felony</i>	<i>13%</i>
<i>Second Degree Felony</i>	<i>35%</i>
<i>Third Degree Felony</i>	<i>51%</i>

We next traced all of these defendants through the end of their terms of supervision or through March 25, 1994, whichever came first. By the end of this period, a total of 1,242 (23 percent) had been rearrested for new crimes, 64 percent of which were felonies.

TABLE XI

Type of Crime Rearrested For

<i>Capital or Life Felony</i>	<i>2%</i>
<i>First Degree Felony</i>	<i>7%</i>
<i>Second Degree Felony</i>	<i>21%</i>
<i>Third Degree Felony</i>	<i>34%</i>
<i>Misdemeanor</i>	<i>36%</i>

We then compared the severity of the original crime with the severity of their new charges. More than 50 percent of these new crimes were as serious or more serious than the offenders' original crime.

We were again amazed by the short period of time before these defendants were rearrested. Over one half of the arrests occurred within six months and over 90 percent of the arrests occurred within one year.

TABLE XII

*Period of Time Before Rearrest  
Following Sentence to Probation or Community Control*

<u>Number of Months</u>	<u>Percentage of 1,242 Arrested for New Crime</u>	<u>Cumulative Percentage</u>
<i>Less than 1 month</i>	<i>5.5%</i>	<i>5.5%</i>
<i>1 - 2 months</i>	<i>18.8%</i>	<i>24.3%</i>
<i>3 - 6 months</i>	<i>29.8%</i>	<i>54.1%</i>
<i>7 - 12 months</i>	<i>36.6%</i>	<i>90.7%</i>

Probation or community control are the least expensive sentencing alternatives available to our criminal justice system. They require no taxpayer supported housing. They require no provision of meals or healthcare. The offenders live at home. They feed themselves and care for themselves. Substantial funds could be saved by making these sentencing alternatives true substitutes for incarceration. The legislature recognizes this fact:

"It is essential to abate the use of large institutions and continue the development of community-based corrections ...and to provide alternatives to institutionalization, including the availability of probationers' residences...."<sup>6</sup>

Despite this recognition, witnesses have told us that these programs are the "stepchild" of the Florida Department of Corrections. Faced with the ever-increasing public clamor to build more prisons and incarcerate more criminals, the department's funds are directed toward that "squeaky wheel". As a result, the caseloads of probation officers have become increasingly unmanageable and their ability to supervise their probationers has become increasingly ineffective.

The legislature's "solutions" to prison overcrowding have usurped the effectiveness of these programs. They have turned them into a criminal offender dumping ground for the defendants they have excluded from state prison. At the same time, the legislature has failed to provide increased funding sufficient to

— handle the resulting increase in caseload. Witnesses have told  
— us that recent changes by the legislature to the sentencing  
— guidelines will result in a substantial increase in the  
— sentencing of felony defendants to community control or  
— probation. Estimates of the increase in Dade County alone run as  
— high as an additional 2,000 defendants in 1994. With caseloads  
— already at crisis levels, this additional burden is a recipe for  
— disaster.

#### — VII. RELEASE PENDING TRIAL

— All persons who have been arrested for or charged with  
— a crime are presumed innocent. This principle is, as it should  
— be, one of the cornerstones of our criminal justice system. To  
— protect a person's constitutional rights, the law requires that  
— (with the exception of a limited class of non-bondable felonies)  
— a person charged with a crime must be released from jail pending  
— trial under the "least restrictive means" available. Various  
— methods of pretrial release are utilized. However, for felony  
— cases in Dade County, posting of a bond through a bondsman and  
— court ordered releases to the custody of the Pretrial Services  
— Bureau (PTS) are most common. A bondsman is, essentially, an  
— insurance agent. In return for a non-refundable premium equal to  
— 10 percent of the amount of the bond plus sufficient collateral,  
— a bondsman guarantees the payment of the full amount of the bond  
— to the court should the defendant fail to appear as required.  
— According to the Metro Dade County Department of Corrections and  
— Rehabilitation, PTS is a program whose role is to "decrease the  
— number of days spent [in jail] by incarcerated defendants who  
— could otherwise be safely released to the community while  
— awaiting their court appearance."<sup>7</sup> There is no cost to the  
— defendant for a release to PTS. It therefore allows a method of  
— pretrial release to indigent defendants who could not afford to  
— post a bond.

— The intended purpose of both of these methods of release is  
— simply to ensure that the defendant, who is presumed innocent,  
— will return for trial and not abscond. An equally important  
— purpose is to reduce the population of the Dade County Jail by

releasing defendants pending trial who are deemed to have little risk of fleeing and a low risk of committing additional crimes. Two thirds of our local jail population consists of defendants held pending trial. If we could safely reduce that population, we would greatly enhance our ability to use our existing jail space to incarcerate and rehabilitate sentenced felons. An effective method of screening and identifying pretrial detainees to determine who could be safely released pending trial is therefore of great importance.

For this reason, we decided to study Dade County's pretrial release system. To do this, we obtained the records of all 2,551 felony defendants released pending trial in Dade County between March 1, 1993 and May 31, 1993 and whose cases had closed by March 9, 1994. Of these defendants, just over 20 percent of the entire study group had been released through bondsmen and just over 56 percent had been released to PTS. Of the entire 2,551 felony defendants in our study group, less than 10 percent failed to appear as required. Those released through bondsmen had a lower rate of failing to appear for court (4 percent) than those released to PTS (13 percent). Interestingly, although the total rate of failure was low, 81 percent of those who failed to appear in court had a prior criminal record for a crime more serious than the one they were pending trial on. Apparently, as a method of insuring appearance in court, our study has indicated that all of the methods utilized for pretrial release operated quite well.

We next studied the prior criminal records of these 2,551 defendants and compared them with the type of crime for which they were released pending trial. A substantial majority had at least one previous conviction for a more serious crime.

TABLE XIII

*Prior Criminal Record At Time of Release*  
*(Comparison Between Entire Study Group and Individual Types of Release)*

	No Prior Record	Prior Record For Less Serious Crime	Prior Record For Equally Serious Crime	Prior Record For More Serious Crime
ENTIRE STUDY GROUP	26%	4%	5%	65%
Released To Bondsmen	32%	6%	6%	56%
Released To PTS	28%	4%	5%	64%



All of us at different times have wondered whether our criminal justice system is a "revolving door" through which offenders are arrested and quickly released to commit additional crimes. We decided to try to determine whether our methods of pretrial release could be one of the sources of that perception. As a result, we studied these same 2,551 defendants to determine if any had been rearrested for new crimes after they were released pending trial and before their pending case had been concluded. The results astounded us. Within our study, 29 percent of these defendants had been rearrested for a new crime. In 67 percent of these arrests, the new crime was a felony. In 57 percent, the arrest was for a more serious offense than the crime they were pending trial on.

One of the facets of a "revolving door" system of criminal justice is the perception that, once released, offenders quickly commit new crimes. Within our study group, the swiftness of rearrest was amazing. Of the 734 defendants who were rearrested for new crimes, 39 percent did so within less than one month. An incredible 91 percent of these defendants were rearrested within only a four month period of time.

TABLE XIV

*Period of Time Before Rearrest Following  
Pretrial Release (Entire Study Group)*

<u>Number of Months After Pretrial Release</u>	<u>Percentage of 734 Rearrested for New Crime</u>	<u>Cumulative Percentage</u>
<i>Less than 1 month</i>	<i>39%</i>	<i>39%</i>
<i>1 - 2 months</i>	<i>39%</i>	<i>78%</i>
<i>3 - 4 months</i>	<i>13%</i>	<i>91%</i>

Of the defendants in our study that had been released through bondsmen, 24 percent had been rearrested for a new crime and 82 percent of these arrests were for equal or more serious offenses. Of the defendants in our study that had been released to PTS, 33 percent were rearrested for a new crime and 89 percent of these arrests were for equal or more serious offenses. Our study has shown that, for approximately 29 percent of the defendants released pretrial in our study, our pretrial release

system was indeed a "revolving door".

In view of this, we were pleased to learn that a substantial overhaul of PTS was recently ordered by Chief Judge Leonard Rivkind. The judge's order effects the release of defendants to PTS as of January 3, 1994. It incorporates many of the changes we would have recommended. We expect that these changes should substantially reduce the number of defendants released to PTS who are accused of violent or dangerous crimes or have serious prior criminal convictions.

We decided within the limited time available to us to do a study of defendants released to PTS after the judge's order went into effect. Accordingly, the records relating to all felony defendants released to PTS from January 3, 1994 through March 31, 1994 were obtained and analyzed. Perhaps because of the limited time frame of our study, none of these defendants had failed to appear in court when required to do so. However, our study clearly shows that substantial changes have occurred as a result of the judge's order. A comparison of the prior criminal records of defendants released to PTS reveals that far fewer serious offenders were released.

TABLE XV

*Comparison of Prior Criminal Record  
of Defendants Released to PTS*

	<i>Original PTS Study Group</i>	<i>Defendants Released to PTS after 1/3/94</i>
<i>No Priors</i>	28%	27%
<i>Priors Less Serious</i>	4%	25%
<i>Priors Equally Serious</i>	5%	16%
<i>Priors More Serious</i>	64%	32%

We duplicated our earlier study relating to arrests following pretrial release. We were again pleased to find that a substantial shift had occurred, resulting in less serious crimes being committed.

TABLE XVI

*Comparison of Seriousness of Rearrest of  
Defendants Released to PTS*

	<u>Original PTS Study Group</u>	<u>Defendants Released to PTS After 1/3/94</u>
<i>Arrested For:</i>		
<i>Less Serious Crimes</i>	4%	14%
<i>Equally Serious Crimes</i>	11%	13%
<i>More Serious Crimes</i>	18%	6%

However, we were surprised to discover that despite the substantial change in the type of offender being released and despite the substantial change in the seriousness of the new crimes being committed, the overall percentage of those rearrested for new crimes was identical.

TABLE XVII

*Comparison of Rearrest of  
Defendants Released to PTS*

	<u>Original PTS Study Group</u>	<u>Defendants Released to PTS After 1/3/94</u>
<i>No Arrests</i>	67%	67%
<i>New Arrests</i>	33%	33%

Even more surprising was the discovery that the swiftness of new arrests had accelerated.

TABLE XVIII

*Comparison of Time Until Rearrest  
of Defendants Released to PTS*

	<u>Original PTS Study Group</u>	<u>Defendants Released to PTS After 1/3/94</u>
<i>Less Than 1 Month</i>	39%	70%
<i>1 - 2 Months</i>	78%	99%

Clearly, the changes implemented by the judge's order have had an extremely positive effect. This success shows how effectively our criminal justice system can be changed for the better. However, our studies have indicated that more "fine tuning" needs to be done to provide even greater protection for our community.

## VIII. CONCLUSIONS

As we approach the twenty-first century, we stand on the edge of an abyss. Our crime problems have not been solved. Our prison overcrowding crisis continues to exist. Violence is a prime ingredient of our daily lives and personal safety a part of our daily concerns. We do not choose to live like this, it has been forced upon us by years of legislative mismanagement and neglect. Solutions must occur now, no matter how costly and no matter how difficult. We must commit the funds necessary to preserve our future. Criminals must be punished swiftly, fairly and meaningfully. Sufficient prisons must be built and staffed to allow sentences to mean what they say. Rehabilitation programs that work must be developed, fully-funded and put into place. Our criminal justice system must become again something feared by criminals and respected by all.

## IX. RECOMMENDATIONS

### THE FLORIDA LEGISLATURE

1. The legislature must stop using the sentencing guidelines as a method of prison population management. They must return the tool of lengthy prison sentences to our local criminal justice system.
2. The legislature must build not just more prison beds but enough prison beds and commit to the proper funding of the staff to operate them. They must be honest and direct with the people of this state about the costs. Our prisons must be given sufficient resources to allow all of a prisoner's sentence to be served. Our legislature must replace the motto of "No New Taxes" with the fighting words of "No New Victims".
3. The legislature must adequately fund and staff DOC's Department of Probation and Parole Services to allow a maximum caseload of 50 probationers for each Dade County probation officer.
4. The legislature must fully fund the 1991 Florida Community Corrections Partnership Act. This act was intended to establish and operate local, community-based sanctions and programs utilizing state rather than local funding. In typically pathetic fashion, only \$300,000 was ever appropriated by the legislature to support it. There was no funding appropriated at all during the legislature's 1993 and 1994 sessions. This is unconscionable and irresponsible. While the legislature is implementing changes forcing us to shoulder more and more of the burden locally, they have failed to support previous legislation intended to help us with this very problem. Through this act, a commitment must be

made to local government for continual and long-term funding. We agree with the 1994 recommendations to amend this act made by the Florida Advisory Council on Intergovernmental Relations and urge that they be adopted.

5. The legislature must either increase the presumptive sentences allowed under the sentencing guidelines or abolish them completely. We agree that non-violent, first or second time criminal offenders should not occupy a prison bed greatly needed to house a violent criminal offender. However, we strongly feel that violent criminals, even first-time offenders, belong in state prison, not local jail.

6. The legislature must enable our criminal justice system to reduce the necessity for plea bargaining by providing a sufficient number of judges to alleviate the overloaded caseloads that presently exist.

#### THE FLORIDA DEPARTMENT OF CORRECTIONS (DOC)

1. The DOC must immediately increase its staffing of probation and community control officers in Dade County. No probation caseload should include more than 50 probationers.

2. The DOC must develop and institute additional programs for the population it supervises in Dade County. It should concentrate its efforts on achieving the following:

- a. Monthly, unscheduled drug testing of each probationer residing in Dade County;
- b. Sufficient drug treatment beds for inpatient drug treatment;
- c. Vocational training and job placement;
- d. Long term reentry assistance for offenders released from jail or prison.

3. The DOC must join in a partnership and commit to the sharing of personnel and resources with all Dade County correctional and law enforcement agencies.

4. The DOC must include in its Annual Report a statistical analysis, by primary offense, of the percentage of the total sentence imposed that was actually served for all releases in that fiscal year. This would allow judges, prosecutors and the public to know exactly what percentage of the state prison sentence imposed on criminals is actually being served.

#### THE COURTS

1. The Judiciary should only sentence a defendant to the Dade County Jail if:

- a. The actual time served would be longer than the alternative state prison sentence, or

b. The defendant suffers from a verified drug addiction, has fully and truthfully answered all questions asked by a TASC or other drug program interviewer and the defendant is a nonviolent offender, who has never previously been sentenced to state prison.

2. All judges should provide for, at minimum, a two year period of probation or community control to follow any sentence of jail or state prison. This will assure that an offender, after release from incarceration, will be provided some form of supervision and assistance when reentering our community. It will also help to deter the commission of additional crimes and will provide a "hammer" should additional crimes be committed.

3. Drug addiction, lack of education and lack of job skills are all contributing factors to our crime problem. Probation or community control allows our courts to require those who commit crimes to take part in their own rehabilitation. The judiciary should, in addition to the currently ordered conditions, require at least the following as a condition of everyone on probation or community control:

a. That the defendant be tested monthly for the presence of drugs and that such testing be done on an unscheduled basis,

b. That a defendant receive vocational training and job placement if not gainfully employed,

c. That a defendant with no high school diploma enter into and complete a GED course or equivalent.

4. The judiciary must assist in making probation and community control viable methods of modifying and directing the behavior of criminal offenders. No judge should allow a so-called "technical" violation of that judge's order of supervision to go unpunished. To do so, makes a mockery of many of these conditions and merely serves to reinforce the message that crime pays. Accordingly, we recommend that a defendant who fails to comply with the technical conditions of probation receive ten (10) days in the Dade County Jail for the first violation and twenty (20) days for the second. Should a third "technical" violation occur, we urge the judiciary to sentence that defendant to state prison.

5. The judiciary should regularly monitor the progress of its probationers.

6. The Dade County Administrative Office of the Courts should expand the abilities of the Criminal Justice Information System (CJIS) to allow it to be used for full statistical analysis. Historical data should be stored and not purged to allow historical analysis to be accomplished.

#### METRO DADE COUNTY CORRECTIONS & REHABILITATION (DCCR)

1. The DCCR must expand its jail facilities. We recommend that our fellow citizens vote in favor of the anti-crime proposal

currently on the September 8, 1994 ballot and providing for 4,500 new jail beds.

2. The DCCR must use the expanded jail bed space and facilities to formulate and institute programs for the rehabilitation of those sentenced to its jails. It must develop a continuum of programming so that when defendants are released they will be transferred to another community based program that will continue the rehabilitation that has begun.

3. DCCR must expand its PTS staff to allow sufficient time for interviews of defendants being considered for pretrial release and verification of criminal records.

4. DCCR must develop and implement a system to enforce the required court appearance of those released to PTS separate and apart from the execution of the bench warrant issued.

5. The DCCR should develop a pretrial release program that provides for direct supervision and would allow the safe release of those defendants likely to receive a probation sentence but unable to qualify for an alternate form of release.

6. The DCCR should regularly study the type of person who fails to appear after pretrial release and the type of person who is rearrested while on pretrial release. An offender "profile" should be determined, made available to the judiciary and law enforcement and utilized as a part of the process of deciding the method and nature of a defendant's pretrial release.

7. The DCCR should create staffing positions sufficient to monitor, record and analyze its programs to determine which ones work, which ones do not and why. The information gained should be made available to the judiciary and law enforcement. It should also be utilized to improve existing programs and create new ones.

Footnotes

- 1 Florida Department of Corrections, September 1993 Information Manual, p. 12.
- 2 Florida Advisory Council on Intergovernmental Relations, Community Corrections - 12/30/93 Draft Report, p. 46.
- 3 Florida Department of Corrections, Corrections As A Business: Making Public Dollars Go Further, 1992/93 Annual Report, p. 78.
- 4 Ibid.
- 5 Spring Term A.D.1986 Dade County Grand Jury, Grand Jury Report On Alcohol and Drug Abuse, (Miami: Spring Term A.D. 1986 Dade County Grand Jury), p. 20.
- 6 Florida Statutes 1993, Chapter 944.012(2).
- 7 Metropolitan Dade County Department of Corrections and Rehabilitation, Growing To Meet The Needs of The 90's, p. 4.



## ENVIRONMENTAL REGULATION OF GOVERNMENTAL AGENCIES

Florida's natural beauty has attracted visitors and new residents almost from the day Ponce deLeon first set foot on the peninsula named for flowers. In more recent times, South Florida in general, and Dade County, in particular, has attracted sufficient residents to become the major urban area of the entire state. Our natural gifts still attract thousands of visitors each year to enjoy our sandy beaches, our warm climate and our subtropical waters. These tourists add some seven billion dollars to our local economy. While we, as residents, enjoy these same natural gifts, we also understand that they exist precariously. In the past, our actions have sometimes stressed them almost beyond the breaking point. Our precious drinking water sits beneath our feet in the Biscayne Aquifer, a porous layer of rock lying some five feet below the surface. The Biscayne Aquifer's close proximity to the surface makes it extremely susceptible to urban contamination. If unchecked, the improper or negligent disposal of hazardous waste and sewage will end our economic life, often fed by tourist dollars, and endanger the health and safety of our everyday existence.

The past 20 years have seen a slow awakening by Florida and our community to the delicate nature of our environment. In the past, the needs of business and economic growth often relegated environmental problems to a low priority. It is an unfortunate fact that, unlike our crime problems which are easily detected, environmental problems build slowly and silently, sometimes taking years before we finally notice them. It is usually the cumulative effects of contamination and neglect that cause an environmental emergency. In 1983, the Fall Term Grand Jury addressed this and said:

"Each dump and junkyard slowly yet continually generates hazardous waste which is at this very moment seeping into the aquifer. Each dry cleaner or engine repair shop which permits its waste solvents or acids or petroleum products to be disposed of in the ground threatens to be returned to us through our kitchen faucets. Every service station with an underground gasoline storage tank poses the risk that its tank might be corroded and leaking, and every individual who [improperly]

disposed of the waste oil drained from an auto engine as a result of a routine oil change...adds to the cumulative effect..."

During our term, environmental emergencies associated with our aging sewage system brought heightened attention to its deteriorating infrastructure. Flagler Street, awash in thousands of gallons of flowing, raw sewage, provided a tangible glimpse of the impact environmental problems can have on our daily lives. The potential threat of another sewage pipeline bursting geyser-like in the midst of the Miami Grand Prix created much discussion about the effect such an incident would have upon our "sun and fun" image. Lurking in the background of our other community concerns are two of our most massive and yet most familiar environmental problems: the pools of aviation fuel under the Miami International Airport that threaten to contaminate our groundwater; and the possible rupturing of the six foot wide pipeline transporting sewage under Biscayne Bay. Increases in fees and taxes necessary to correct these massive environmental problems loom on our horizon. We are now, finally, having to confront the true costs of a history of environmental neglect. The lessons of our past are clear. When problems that threaten our environment are discovered, they must be swiftly and appropriately remedied. To do otherwise would be to abandon some of the most attractive and beautiful qualities of life in Dade County, the qualities which we, as Dade County residents, enjoy and the qualities which make tourists regularly visit our shores.

No agency of local government has taken these lessons more to heart than the Dade County Department of Environmental Regulations and Management (DERM). This agency has an exemplary performance record in the enforcement of state and local environmental laws. Working closely with the Dade County Attorney's office, they have brought many successful civil lawsuits against local businesses and individuals to force remediation of environmental violations. Working in close conjunction with the Dade County State Attorney's Office, they have helped make many criminal environmental prosecutions possible. For their efforts in these regards, they deserve our thanks. However, DERM's environmental enforcement efforts have been remarkably ineffective in obtaining compliance by several



photographs and laboratory analysis over one year ago, this sanitary nuisance still remains. DERM's May 4, 1993 Notice of Sanitary Nuisance did not invoke the required immediate response. Management has only superficially addressed this problem by occasionally removing the liquid without preventing its reoccurrence. A January 18, 1994 letter from MDSWA to DERM states this problem is "solved". A subsequent inspection by DERM three days later revealed otherwise. This pollution remains unabated and Wagner Creek, the Miami River and Biscayne Bay remain at risk.

This is not to imply that MDTA and MDSWA are the only county agencies with a history of environmental inaction. DERM has been telling Dade County Water and Sewer Authority (WASA) to repair or replace the cross-bay pipeline since 1988. Construction has only just begun. DERM has been trying to force the Dade County Aviation Department to clean up the underground pools of fuel at the Miami International Airport since at least 1982. We have not yet seen this occur. With some notable exceptions, the efforts now underway to correct these problems are not the result of a sudden sensitivity to our environmental needs but are the result of lawsuits, threats of fines and public outrage. Unfortunately, our community was not made sufficiently aware of the problems that led up to these environmental emergencies, nor the governmental inaction that bred them. We can no longer afford to allow this to happen. We can no longer afford to rely upon expected governmental sensitivity to solve our environmental problems.

## RECOMMENDATIONS

1. All DERM files are public documents. However, public access by itself does not mean public awareness. It is clear to us that, had we been properly informed of these ongoing environmental dangers, had we known that our own county government, through inaction, was allowing them to exist and fester, we would have held each agency more accountable and demanded appropriate action occur. Accordingly, we recommend that the Dade County Manager and the Dade County Commission require the director of DERM to issue, each year, a written Environmental Audit of our local governmental agencies in which the following is reported:

- a. The names of every local government agency, both county and city, wherein environmental problems currently exist;
- b. A complete description of the nature of these problems;
- c. A complete description of all governmental action or inaction that has occurred;
- d. A ranking of the severity of these problems; and
- e. A recommendation as to appropriate disposition.

A copy of this Environmental Audit should be sent to all of Dade County's elected officials and local law enforcement agencies. Copies should also be sent to our governor, lieutenant governor and cabinet.

2. We recommend that DEP immediately increase its staffing in Dade County and provide the enforcement authority that DERM lacks. DEP and DERM must act as partners, utilizing DERM's proven expertise and DEP's enforcement authority, to provide swift mitigation of governmental environmental violations.

3. We recommend that the Dade County Commissioners create the position of Environmental Ombudsman to investigate instances of governmental inaction or delay regarding the mitigation of environmental violations. In furtherance of this mission, the ombudsman should be given lawful authority to inspect, unannounced, the premises of any Dade County agency.

4. Many of the environmental problems we found to exist at Dade County's agencies could have been easily prevented if the personnel at these agencies were knowledgeable about the effects of their actions upon our environment. We therefore recommend that the Dade County Manager develop and implement an environmental training program for the employees of all Dade County agencies whose activities have the potential to impact or contaminate our environment. This training program should emphasize the necessity for preventing environmental contamination and the consequences of failing to do so.

5. We recommend that the Dade County Commissioners find a way to provide DERM with the legal authority it needs to enforce environmental violations against Dade County agencies. While we are hesitant to add another layer of bureaucracy, removing DERM from under the Dade County Manager and placing it under an elected Environmental Board, similar in nature to the Dade County School Board, might be a way of accomplishing this. We must do whatever is necessary to insure that environmental violations in our community are dealt with swiftly and appropriately.

6. We recommend that our successor grand jury monitor these issues and insure that our recommendations do not go unheeded.

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
EDUARDO MARTINEZ BENITEZ	First Degree Murder Armed Burglary With an Assault Kidnapping with a Weapon Armed Sexual Battery	True Bill
WILBUR LEROY MITCHELL	First Degree Murder of a Law Enforcement Officer Attempted Armed Robbery Attempted First Degree Murder Armed Robbery Unlawful Possession of a Firearm by a Convicted Felon	True Bill
LAFAYETTE BIGLOW	First Degree Murder Armed Burglary with Assault Possession of Firearm During the Commission of a Felony	True Bill
ERIK OTERO "A" and SERGIO AMADOR "B"	First Degree Murder "A" Shooting or Throwing Deadly Missile "A" Armed Robbery "A" Carrying a Concealed Firearm "A" Accessory after the Fact "B" Tampering with or Fabricating Physical Evidence "A" and "B"	True Bill
JORGE FELIX PRIETO	First Degree Murder Attempted First Degree Murder Possession of a Firearm During the Commission of a Felony	True Bill
WALTER LEE EVANS, "A" and DAPHINE BREEDEN, "B"	First Degree Murder "A" Aggravated Child Abuse "A" Third Degree Felony Murder "B" Child Abuse "B"	True Bill
RODERICK LATORICE BROWN, AZEEM MILIK TEART, and DAVID LEE JONES	Burglary with an Assault Kidnapping Robbery	True Bill
DERRICK EMILE LEWIS	First Degree Murder Armed Burglary with an Assault First Degree Arson Unlawful Possession of a Weapon During the Commission of a Felony	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
NORMAN CAISON	First Degree Murder Attempted First Degree Murder Attempted First Degree Murder Attempted First Degree Murder Attempted First Degree Murder Possession Firearm During Commission of Felony	True Bill
RONNIE HILL and STACEY DIXON	Burglary with an Assault Strong Arm Robbery	True Bill
RONNIE HILL	Armed Robbery Armed Burglary	True Bill
VINCENT PIERRE, SIDRICK EARLY BERRY, MAX ALCINDOR, JOHN PEOPLES, IGNACE ALPHOSE and IVAN HALL	Burglary of an Occupied Vehicle with an Assault/Battery Strong-Arm Robbery Strong-Arm Robbery Battery (Defendant Pierre only) Resisting an Officer Without Violence Grand Theft Motor Vehicle Criminal Mischief (damage over \$1,000) (Defendants Pierre, Peoples, Alphose & Hall)	True Bill
IVAN HALL	Burglary of an Occupied Vehicle with an Assault or Battery Strong-Arm Robbery	True Bill
IVAN HALL and JOHN PEOPLES	Armed Robbery Strong-Arm Robbery	True Bill
JOSE MANUEL POLANCO	First Degree Murder	True Bill
MARCUS JARMAINE LADAKER	First Degree Murder	True Bill
ROY CRUZ and JOSE GARCIA	Attempted First Degree Murder Attempted First Degree Murder Attempted Armed Robbery	True Bill
NAPOLEAN LEE	First Degree Murder Robbery Burglary with an Assault or Battery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
DERRICK LAVAR EVANS	Armed Robbery	True Bill
RHONDA LEA ALDINGER, also known as KAREN REIL	First Degree Murder Armed Robbery Burglary with Assault or Battery Therein While Armed Grand Theft Third Degree	True Bill
WESTER FETIERE	First Degree Murder	True Bill
WILLIAM WHIPPLE	First Degree Murder Attempted First Degree Murder Attempted First Degree Murder Armed Robbery Unlawful Possession of a Firearm While Engaged in a Criminal Offense Unlawful Possession of a Firearm by a Convicted Felon	True Bill
JUAN BENJAMIN COLON	First Degree Murder Aggravated Child Abuse	True Bill
JAMES WALKER, QUINTON ROGERS and WILLIE ROGERS	First Degree Murder First Degree Murder Kidnapping Kidnapping Burglary with Assault or Battery Therein	True Bill
EMILIA COLON, SIRO CHANG, RODOLFO FERRER, RUBEN DARIO SOSA, and BEGLIE MORALES	Kidnapping Robbery Burglary with an Assault Therein	True Bill
CHARLENE DENISE JOHNSON	Second Degree Murder	True Bill
DEMNIS MICHAEL McCLOSKEY	First Degree Murder Armed Kidnapping Use of a Firearm in the Commission of a Felony	True Bill



<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
JOSE ANTONIO JIMENEZ	First Degree Murder Burglary with an Assault Therein Robbery	True Bill
ABRAHAM DWAYNE McLEROY	First Degree Murder	True Bill
BRYANT GERMAIN BRADSHAW, also known as "POPPY", and TORREY COTMAN, also known as "POOKIE"	Sexual Battery Sexual Battery Burglary With an Assault Therein Kidnapping Lewd Assault Act	True Bill
HENRY MORROW	Armed Robbery	True Bill
HENRY MORROW	Armed Robbery Armed Robbery Armed Robbery	True Bill
HENRY MORROW	Armed Robbery Armed Robbery	True Bill
FABIAN TYRONE HALL	First Degree Murder Armed Burglary	True Bill
VINCENT PIERRE IVAN JOVAN HALL and IGNACE ALPHOSE	Burglary of Occupied Vehicle with Assault/ Battery Strong-Arm Robbery Strong-Arm Robbery Grand Theft Auto	True Bill
ORVIN DUBLON	First Degree Murder Armed Burglary with Assault Therein Armed Robbery Attempted Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
JARRAL HAYES, also known as JAMAL JOHNSON, DEON LIONEL WILSON, ARMARD ROSARD JOHNSON, and RAYMOND McFADDEN	Armed Robbery Armed Robbery Strong-Arm Robbery Armed Burglary with an Assault Use of a Firearm During the Commission of a Felony	True Bill
FRANCHY ST. LOUIS JOSEPH	First Degree Murder	True Bill
ALLEN BEAL, JR.	First Degree Murder First Degree Murder Shooting Deadly Missile	True Bill
OMAR LEONARD and MICHAEL SCHULTZ	Armed Robbery	True Bill
LEROY TURAINÉ JOHNSON (A) and ANDREW BERNAL JONES (B)	Armed Robbery (A) (B) Armed Burglary (A) (B) Unlawful Possession of a Weapon While Engaged in a Criminal Offense	True Bill
ORVILLE ORLANDO JAMES "A", SANDY JOHNS "B" and JERMAINE THOMPSON "C"	I. Armed Burglary with Assault (A) (B) & (C) II. Armed Robbery (A) (B) & (C) III-VI. Armed Kidnapping (A) (B) & (C) VII-X. Armed Sexual Battery (A) & (C) XI. Attempted First Degree Murder (A) (B) & (C)	True Bill
JERMELL WRIGHT, also known as JERMELL CAIN, and RODNEY CURE	Armed Robbery Shooting or Throwing Deadly Missile Armed Robbery Shooting or Throwing Deadly Missile Unlawful Possession of Short-Barreled Shotgun	True Bill
CEDRICK HENRY	First Degree Murder	True Bill
ALAIN JOSEPH, also known as DARBY TOUSSAINT and STIVE JAMES, also known as STEVE ROCHE	Armed Robbery Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
JUAN CARLOS PARSONS	First Degree Murder Kidnapping with a Weapon Armed Robbery Unlawful Possession of a Firearm While Engaged in a Criminal Offense	True Bill
RICKY AZMOE	First Degree Murder	True Bill
EDELMIRO ESQUIVEL	Second Degree Murder Second Degree Murder	True Bill
OMAR SHARION JEFFRIES, SAMUEL JEAN BAPTISTE, TYRONE BARBER, ARMINE SMITH, and DEMETRIUS LAMONT STEWART	Armed Burglary (A,B,C,D) Armed Robbery (A,B,C,D) Armed Kidnapping (A,B,C,D) Armed Burglary (A) Armed Robbery (A) Aggravated Assault (A) Armed Burglary (A,B,C,D,E) Armed Robbery (A,B,C,D,E) Armed Robbery (A,B,C,D,E)	True Bill
LEVAR GRAHAM	Armed Robbery	True Bill
ELIUTERIO JESUS TERRERO	First Degree Murder Attempted First Degree Murder With A Firearm Aggravated Battery with a Firearm Aggravated Assault with a Firearm Resisting an Officer Without Violence	True Bill
JEAN-CHARLES FRITZNEL	First Degree Murder	True Bill
SHYLLLEY ANN WILDMAN	First Degree Murder Aggravated Child Abuse	True Bill
RUBEN DARRIO GOMEZ	First Degree Murder	True Bill
DEJZIL MONTAQUE	Armed Robbery	True Bill
PEDRO GARCIA	First Degree Murder Shooting into an Occupied Dwelling	True Bill
MODESTO SILVA GONZALEZ	First Degree Murder Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
JEAN-CLAUDE JEAN	First Degree Murder Unlawful Possession of a Firearm While Engaged in a Criminal Offense	True Bill
MATTHEW SCOTT NYMAN	First Degree Murder Armed Robbery Armed Burglary with an Assault Grand Theft Auto	True Bill
ISAAC SMALL	Armed Robbery	True Bill
PETER LYNCH	First Degree Murder Unlawful Possession of a Firearm by Convicted Felon	True Bill
THURSTON LAMAR BLACKMON and ENGENIO JENKINS	Felony Second Degree Murder Armed Robbery	True Bill
WILTON LEE WILLIAMS	Armed Robbery Armed Robbery	True Bill
MICHAEL FONSECA	Attempted First Degree Murder Attempted Armed Burglary Shooting or Throwing a Deadly Missile	True Bill
ELMER SUAREZ	Armed Robbery Burglary with an Assault Therein Shooting or Throwing Deadly Missile	True Bill
ANTHONY GRAHAM	Attempted First Degree Murder Attempted Armed Robbery (6 counts) Unlawful Possession of a Firearm While Engaged in a Criminal Offense	True Bill
MARLON JOVANI HERNANDEZ and PAUL SAL CARDALI, JR.	First Degree Murder Sexual Battery Kidnapping	True Bill
TERRY TEE JAMES and AROLD MERRITT	First Degree Murder Armed Robbery Armed Robbery Possession of Firearm in Commission of Felony	True Bill
MAURICE HARRIS	Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
DEVON MASTERS, JIMMY FEDE and JAMES ST. HILARE	First Degree Murder Attempted First Degree Murder Armed Robbery Attempted Armed Robbery	True Bill
STANFORD WAIT ELLIS	Armed Robbery (Counts I-II) Armed Burglary with Assault Aggravated Assault with Firearm (Counts IV-VI) Possession of Firearms by Minor Under 18	True Bill
JOHN MICKENS and MAURICE HARRIS	Attempted First Degree Murder Armed Robbery	True Bill
TODD SWEETING	First Degree Murder Armed Robbery	True Bill
KEITHAN DARNELL BATTIE	First Degree Murder First Degree Murder	True Bill
XAVIER RICHARDS	Armed Robbery	True Bill
MARLON JOVANI HERNANDEZ and PAUL SAL CARDALI, JR. [Prev. indicted 3/16/94]	First Degree Murder Sexual Battery Kidnapping	True Bill
JAMES (TEE) TERRY, also known as TERRY TEE JAMES and AROLD MERRITT [Prev. indicted 5/23/94]	First Degree Murder Armed Robbery Armed Robbery Possession of Firearm in Commission of Felony	True Bill
MARCUS LARRELL SMITH	Attempted First Degree Murder Attempted Armed Robbery	True Bill
TOMMY BROWN "A" and CABE WILLIAMS "B"	Attempted First Degree Murder Attempted Armed Robbery Grand Theft Motor Vehicle (B)	True Bill
CLAUDE PASQUET	Armed Robbery	True Bill
RAMONA TAVIA	First Degree Murder Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
ALTON LEE KING	First Degree Murder	True Bill
CALVIN ANDREW WOODY	First Degree Murder	True Bill
MAURICE HARRIS	Attempted First Degree Murder Armed Robbery	True Bill
ROHAN EDWARDS	Attempted First Degree Murder Attempted Armed Robbery	True Bill
EDUARDO PAGAN	First Degree Murder Unlawful Possession of a Weapon While Engaged in A Criminal Offense	True Bill
XAVIER RICHARDS	Armed Robbery	True Bill
JUAN CARLOS TOSCA	First Degree Murder	True Bill
CARLOS HUMBERTO REYES	Armed Burglary with Assault Therein Armed Robbery	True Bill
CARL ERNEST HURD, also known as "BEBE"	First Degree Murder Unlawful Possession of a Firearm by a Convicted Felon	True Bill
LUIS RAYMOND GARCIA	First Degree Murder	True Bill
CARL ERNEST HURD, also known as CARL E. HERT	First Degree Murder Attempted First Degree Murder Attempted Second Degree Murder Unlawful Possession of a Firearm By A Convicted Felon Carrying a Concealed Weapon Resisting an Officer with Violence	True Bill
TRACY JAMES McLIN	First Degree Murder Armed Robbery	True Bill

<u>NAME OF DEFENDANT</u>	<u>CHARGE</u>	<u>INDICTMENT RETURNED</u>
OMAR SHARION JEFFRIES, also known as "RED", SAMUEL JEAN BAPTISTE, also known as "SAMMY", TYRONE BARBER, ARMINE SMITH, also known as "PEPPER" and DEMETRIUS LAMONT STEWART, also known as "DEE"	Attempted First Degree Felony Murder Armed Burglary Armed Robbery Armed Kidnapping Aggravated Battery Armed Burglary Armed Robbery Aggravated Assault Armed Burglary Armed Robbery Armed Robbery	True Bill
JOSEPH MACKEY, also known as RONNIE CALOWAY, also known as VIRGIL CALOWAY, also known as RONALD NELSON THREADGIL	First Degree Murder Aggravated Child Abuse	True Bill
PIETRO VENEZIA	First Degree Murder Tampering with or Fabricating Physical Evidence	True Bill
JUAN CARLOS PARSONS and ROBERTO PARSONS	First Degree Murder Kidnapping Armed Robbery Unlawful Possession of a Firearm While Engaged in a Criminal Offense	True Bill
XAVIER RICHARDS and ZWAQUAN HARRIS	Armed Robbery	True Bill
NATHANIEL WALKER	Armed Burglary of a Dwelling with an Assault Possession of Burglary Tools Aggravated Battery Battery	True Bill
JOSE RAMON FLORES	First Degree Murder Attempted First Degree Murder (2 counts) Armed Robbery (3 counts)	True Bill
MATTHEW LEE FELDER, and TAVARES LARK also known as TAVARIS LARK	Armed Burglary Attempted Armed Robbery Attempted First Degree Murder Resisting Officer Without Violence Shooting Deadly Missile Possession of a Firearm by a Minor	True Bill

The Grand Jury also returned one additional True Bill that is presently sealed pursuant to Florida Statute 905.26.

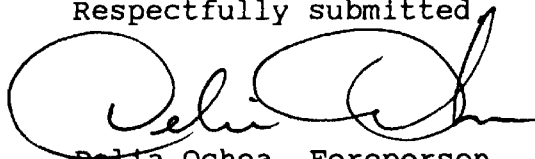
ACKNOWLEDGEMENTS

We wish to thank the Honorable Judge Martin Greenbaum and the Honorable Judge Judith L. Kreeger, Chief Judge Leonard Rivkind and State Attorney Katherine Fernandez Rundle. We especially thank Deputy Chief Assistant State Attorney Chet J. Zerlin, whose dedication and skill in presenting the facts and explaining the law made our task more enjoyable and certainly easier to perform.

To Rose Anne Dare, Administrative Assistant to the Grand Jury, who graciously and expeditiously managed the myriad of administrative details of the Grand Jury; Arthur Lewis, our faithful Bailiff and Angela Garcia, our Deputy Clerk of Court, all of whom contributed greatly in assisting this Jury in fulfilling its duties, we express our gratitude.

We gratefully acknowledge and thank the many dedicated representatives of the law enforcement agencies of Dade County and its municipalities, whose skill and professionalism have earned our lasting respect. We would especially like to thank the staff of the Florida Department of Corrections and the Metro-Dade County Department of Corrections and Rehabilitation for their dedication and professionalism.

Respectfully submitted,



Delia Ochoa, Foreperson  
Dade County Grand Jury  
Fall Term 1993

ATTEST:



Sara Martin  
Clerk

DATE: May 11, 1994