

FINAL REPORT OF THE GRAND JURY
APRIL TERM, 1993

TO
THE HONORABLE J. RANDALL WYATT, JR.
JUDGE, CRIMINAL COURT DIVISION II
DAVIDSON COUNTY, TENNESSEE

During the April Term the Grand Jury heard more than 500 cases involving crimes ranging from criminal trespass to criminal homicide. Through the fine efforts of Mr. James Utley of Judge Wyatt's Court the Grand Jury was able to visit and learn about the functions of numerous facilities and offices in the county. The places visited were the Sheriff's office; the Mayor's office; Riverbend Maximum Security Prison; Metro Detention Facility at DeBerry; Metro Police Department and Training Academy; the Tennessee Prison for Women; and the Juvenile Court.

This report focuses on several specific topics directly related to the criminal justice system which the Grand Jury feels are important to the community. The Grand Jury does not wish to imply that the criminal justice system does not work, because it does. It does, however, offer constructive criticism along with recommendations for certain changes it feels will make Davidson County a safer place in which to live and work.

The Grand Jury points out hereinafter certain governmental relationships, procedures, policies, and laws, currently existing in the system, which it believes not only confuse the public but are not in their best interest:

Citizens Review Board

To hear matters relating to alleged police brutality.

The furor and clamor for a "Citizens Review Board" surfaced with full force after the police incident of December 14, 1992. The charge was led by activists and leaders of certain special interest groups. Since the incident there have been no reported cases of misconduct by police officers and this Grand Jury has not heard of a single case of police brutality or the use of excessive force by a police officer during its term. The Grand Jury sees no evidence of any ongoing misconduct by the police department in this area and believes that the Chief of Police is committed to keeping it this way.

The Grand Jury supports the general concept of a citizens review board and offers the following simple and workable solution to the proposition of such a board:

First and foremost, the Citizens Review Board should be separate from any political influence or control. Its makeup should not constitute appointed police officers, church leaders, political activists or anyone else in the community known to represent the special interests of any group or organization. It should be made up of citizens selected at random from across Davidson County.

The Grand Jury recommends that the sitting Grand Jury for Davidson County be designated as the Citizens Review Board during the term for which they are selected. It could easily draw its support from the District Attorney General's office and could, when necessary, hear designated cases as part of its normal caseload.

If necessary it could add an extra one-half day for the purpose of hearing cases. The Tennessee statutes for Grand Jury guidelines could be used to determine whether a particular case had merit and should be presented to the full Grand Jury or this determination could be made by the District Attorney General's office.

The Grand Jury concept meets all the criteria recommended by this Grand Jury for the composition of a Citizens Review Board.

Capital Punishment

The Grand Jury is unanimous in its support of the death penalty. It is supported by eighty-seven percent (87%) of the people in this country. The death penalty is not what it once was in Tennessee. Tennessee is the only state in the old south that has not executed a prisoner since 1977. There are currently 102 prisoners on death row. The electric chair has not been used for more than thirty (30) years in Tennessee and one hundred percent (100%) of those supporting the death penalty cannot understand why.

At least sixteen of the death penalty cases have made it to the eighth level of the appeals process.

Over the years many death row inmates have been able to present themselves as model prisoners, born again of a new faith. They have even succeeded in developing vocal contacts outside walls, who have espoused the prisoners' new found religion and how they have been "rehabilitated" over the years.

Did the prisoners who were executed in Tennessee between 1916 and 1960 get treated fairly? Every criminal who has committed the same crime of first degree murder with "aggravating

circumstances" since that time has fared much better. Not a single one of them has been punished for his or her crime as directed by a judge or a jury. In all these cases it has been the victims' families who have suffered the most. They must live, not only with the violent crime committed against a loved one, but a system of justice in Tennessee that literally defies the law. The politicians provide plenty of rhetoric on the issue but no real leadership.

The Grand Jury supports the death penalty as a deterrent to criminal homicide and subscribes to that ancient theory of "an eye for an eye and a tooth for a tooth".

Police Incident

of December 14, 1992

The Grand Jury, at the request of the District Attorney General's office, examined every aspect of the highly publicized case. A detailed report on the subject was submitted to Judge J. Randall Wyatt, Jr., on June 4, 1993. The Grand Jury stands by this report as submitted.

Metropolitan Development Housing Agency

The Grand Jury is concerned about the prevalence of crime, particularly among juveniles, in public housing projects in the community.

A statement made by the Chief of Security of the Metropolitan Development Housing Agency, "It took us four hours the other night to run the drug dealers out of the project" is indicative of the serious problem that currently exists.

The Grand Jury looked closely at the J.C. Napier-Tony Sudekum projects on Murfreesboro Road. These projects are located in what is classified as one of the highest crime areas in the community.

The Grand Jury finds that the general living conditions in these projects are deplorable. There is little or no security, there is little or no quality control regarding upkeep of the units and there is limited maintenance and repairs. The units are infested with bugs and roaches. The common areas are littered with trash and debris.

The Metropolitan Housing and Development Agency is a federally funded agency but it is managed by a Board appointed by the Mayor. The manager for this agency is selected by the Board.

The Grand Jury recommends that the Board of the Agency take a close look at the management of these two projects and take the necessary steps to correct the ongoing deficiencies. The Grand Jury commends the Agency for doing the best it can with the given resources and its comments on these two projects should in no way reflect on the other projects.

The Grand Jury further recommends that the Mayor appoint a task force to look into the conditions in public housing in the community. This task force should also establish a summer jobs program within these projects, funded from the private sector.

The Grand Jury feels that it is of paramount importance to meet this problem head on as it exists today as a major part of the criminal system in this community.

Juvenile Crime and the System

Juvenile crime in Davidson County is increasing at an alarming rate. Violent crimes committed by juveniles is up fifty-six percent (56%) over the past two years and there is no strategic plan to deal with this fact. The citizens, as well as the police officers, of Davidson County have lost all confidence in not only juvenile law enforcement but the laws relating to that enforcement.

The Grand Jury has examined four areas in an attempt to answer one simple question. Is there juvenile justice in our community? These areas are: deterrent to juvenile crime, enforcement of juvenile law, the punishment of juvenile offenders, and rehabilitation of the juvenile delinquent.

There appears to be very little deterrent to juvenile crime under the current juvenile system. The juvenile offender has the attitude that nothing will happen if he or she commits a crime. This attitude creates a "no fear" atmosphere of the law among youthful offenders. Without fear, there is no respect for the law, thus there is little or no deterrent to breaking the law.

The enforcement of juvenile law is an increasingly difficult job for our law enforcement agencies. Law enforcement officers are tied up for hours while the Juvenile Court is deciding the charge. A typical example of how the juvenile system deals with a juvenile drug offender is seen in the case of a 15-year old who was arrested and charged with possession of cocaine for resale. He was released back to the streets after being held for two and one-half hours in Juvenile Detention. Current juvenile law would not allow him to be held any longer. Since his arrest he has had one hearing with a second one scheduled 30 days later.

The punishment of the juvenile offender is the essential ingredient in the deterrent to juvenile crime and the enforcement of juvenile law. The use of electronic monitoring devices in cases of home arrest are ineffective. Probation is also an ineffective method of punishment used for juvenile offenders.

The rehabilitation of the juvenile delinquent is the primary goal of juvenile law. However, without the deterrent and punishment of the juvenile offender there is no base for rehabilitation. The current philosophy of juvenile justice is rehabilitation rather than punishment and crime continues to increase.

The Grand Jury recommends stiffer punishments for juvenile offenses. It recommends a revision of the antiquated laws relating to juveniles. The Grand Jury recommends that a county-wide plan be developed between the Juvenile Judge, the Metro Director of Education and law enforcement officials to reduce violent crime in the community.

The Grand Jury is committed to the proposition that education is one of the most important ingredients in the life of a young person. The Grand Jury does not believe in suspending a child from school and recommends an alternative measure of discipline. He or she must spend every possible minute in the classroom. The Grand Jury is disturbed by the fact that our system spends between \$32 and \$57 a day for a prison inmate and less than \$23 per day for a child in school.

The Grand Jury feels that the current system is failing the youth of this community.

The Question of Bonds and
the State Parole Board

One of the areas in which the Grand Jury took interest was that of establishing bonds. The Grand Jury continually expressed concern over the seeming illogical manner in which this process is handled. There seems to be no standard for the setting of bonds nor for the reduction thereof.

Our attention was drawn to the fact that due to the large number of cases in the system, there may not be enough communication between the District Attorney's office and the Judges regarding the setting of bonds.

The Grand Jury looked at the parolee notification process. We interviewed Mr. Charles Traughber, Chairman of the State of Tennessee Board of Paroles. Mr. Traughber informed us as to the process which takes place when a parolee is arrested.

"The parole officer will check the report of persons arrested the previous day/night. If the list is available, the officer will take it to the parole office for immediate review. If the list is not available, Metro will place it in our pre-addressed envelope and our parole office receives it the next day."

The parole officer then has the option to send the court a parole violation warrant by mail or by fax. If public safety is involved the latter is used.

Communication between the parole board and Metro will improve this year, according to Mr. Traughber, with the installation of a computer line to Metro. "This will permit the parole officer, on a daily basis, to computer check the arrest report in Nashville."

The Grand Jury's impression is that stricter guidelines need to be drawn in setting bonds. It is also the opinion of the Grand Jury that prior to setting bond on a parolee, an immediate consultation with the parole officer needs to occur.

Some other specific cases which drew the attention of the Grand Jury due to the vast disparagence in the amount of the bonds were as follows:

We heard a case in which a suspect was held on \$1,000 bond for the alleged assault of Police Officer M. L. Moss during the commission of a felony burglary. Officer Moss was left at the scene unconscious and later required twenty-two stitches on his head.

The same day we heard the case of a defendant held on \$25,000 bond for alleged sexual battery. He is accused of touching a twelve-year old outside her clothes.

A known and repeat criminal had his bond set at only \$5,000 after allegedly murdering his companion in a drunken fight.

One suspect had his bond reduced twice from \$10,000 to \$5,000 to \$500 for possession of a controlled substance for resale.

A bond was set for \$2,000 for shoplifting \$165 worth of items at a local K Mart.

The Grand Jury does not question the right of an accused to make bond, but it cannot understand how criminals with a long list of convictions are allowed to return to a life of crime so quickly.

This Grand Jury concludes that there is little regard for public safety when bonds are being reviewed. Violent and convicted felons are regularly released on low bonds and continue to commit crimes while on the streets.

The Mayor's Office and the Sheriff's Department

The Grand Jury chooses to comment on the relationship between the Mayor's office and the Sheriff's Department because they both play an integral part in the criminal justice system in this community.

The Mayor and the Sheriff do not have the best of relationships. They both admit this.

The problem apparently stems from the fact that the Sheriff, as the manager of the county detention facilities, was not given the opportunity to manage the new Metropolitan Detention Facility. This facility, completed in early 1992 at a cost in excess of Nineteen Million Dollars was given to the State to house locally convicted felons. The Metropolitan Council was heavily lobbied by locally interested parties and ultimately signed a contract with a private concern to manage the facility.

The new facility has a capacity of 870 beds but currently only about 400 of those are being occupied.

The Metropolitan Sheriff's Department had, for more than ten years prior to 1992, been managing felons for the State.

The only question that concerns the Grand Jury is how can the vacant beds at the Metro Detention Facility be utilized in the best interest of the community.

The Grand Jury feels that the Sheriff's Department, with its varying degree of detention responsibilities, would be best suited to maximize the full potential of this facility.

The Grand Jury encourages the Mayor and the Sheriff to get together and resolve their differences and to focus on what is best for all the citizens of Davidson County.

In summary, the Grand Jury believes that the criminal elements in this community have no respect for the system. The criminal knows the system thoroughly and does not fear its consequences. They know that bonds will be reduced and that they will be returned promptly to the streets. If they do happen to spend time behind bars, it becomes an educational opportunity to learn better how to avoid future incarceration.

We are alarmed that the rate of parole is increasing by more than ten percent a year. We believe that criminals need to serve the time given them. And we believe there is adequate space in our institutions at this time to house these criminals.

The Grand Jury has heard from the beginning of its term that there is an overcrowding situation in our detention system. This perception has been expressed by various members of the system from the judicial to police to parole. But we have been shown by the Mayor's office that there is no such problem.

The community would be better served if those within the criminal justice system would stop using overcrowding as an issue and a reason for their decisions.

It has been an honor for this Grand Jury to serve this community and your honorable Court. We appreciate the confidence you have shown in us and we are all better citizens for having had this opportunity.

Respectfully submitted,



LYTLE BROWN, III

FOREMAN OF THE GRAND JURY

MEMBERS OF THE GRAND JURY:

Caral J. White

Rhonda Y. Bonds

Jessie Inez Lisk

Patsy Vest

Mary Jo Freeman

Genay Roberts

Ang Clifton Harris Jr.

D M P

Robert Johnson

Barbara J. Armstrong

Elvin L. Stokes

Robbie W. Bant