

**FINAL REPORT
DAVIDSON COUNTY GRAND JURY
APRIL 2007 TERM
APRIL-JUNE 2007**

**PRESENTED TO
THE HONORABLE MARK J. FISHBURN
JUDGE, CRIMINAL COURT, DIVISION VI
DAVIDSON COUNTY, TENNESSEE**

June 22, 2007

Grand Jury Final Report
Davidson County, Tennessee
Term: April 9, 2007 through June 22, 2007

Foreperson: Bill Covington

The Grand Jury heard evidence in a total of 1,011 cases. The following decisions were made concerning the evidence presented: 992 True Bills and 19 No True Bills were returned.

Throughout the course of the term, the Grand Jury developed interests in certain areas of the Tennessee Law that are unintentionally problematic for the prosecutors of crime and law-abiding citizens. Those areas include but are not limited to the following:

Child Abuse and Neglect:

No human is more vulnerable than a child, and no child more vulnerable than a very young child. While it is not that uncommon to find conflicting language in the Tennessee Code Annotated, it is both confusing and problematic when such conflicting language is allowed to remain unaddressed.

The Grand Jury respectfully recommends that the General Assembly amend TCA 39-15-401 (a) and (b) so that the punishment for a person who neglects a child will be the same as the punishment for a person who abuses a child and that the age of the increased vulnerability in TCA 39-15-401 will match TCA 39-15-402. We have found the discrepancies in the statutes to be confusing and, in our opinion, unfair to the class of children who are harmed by the neglect. The punishment for neglect or endangerment of a very young child found should be a Class D felony so that it matches the punishment for the abuse of a very young child. We agree with the legislature that a person should be punished more severely when the victim is a very young child, but we believe that the age limits should be the same, eight (8) years of age or less, in both 39-15-401 and 39-15-402.

Additionally, the General Assembly should correct a problem that was pointed out by the Tennessee Supreme Court in 2001. The law should state that a person who risks a child's health and welfare by neglect or endangerment should be punished for the crime of child neglect whether or not the child is actually harmed. In our opinion, the law should make it clear that the crime is committed whenever a child is exposed to a risk of harm. The act of exposing a child to the risk of harm during the commission of another crime should not be punished as an attempt but rather as a completed act of neglect.

In our report, we want to offer specific suggestions for legislative changes to address these concerns. We would now suggest that TCA 39-15-404 (a) be amended to read as follows:

- (a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits the offense of child abuse, a Class A misdemeanor; provided, however, that if the abused child is eight (8) years of age or less, the penalty is a Class D felony.

And TCA 39-15-401 (b) should be deleted and replaced with the following:

- (b) Any person who knowingly neglects or endangers a child less than eighteen (18) years of age, in such a manner that it is likely to adversely affect the child's health and welfare commits the offense of child neglect. An actual injury or adverse effect to the child's health and welfare is not required. A violation of this subsection is a Class A misdemeanor; provided, that if the neglected or endangered child is eight (8) years of age or less, the penalty is a Class D felony.

During our term, we have been confronted by many cases that involved children who were victimized by adults. We feel that the above legislation would address the conflicting language that concerned us during our deliberations. After voicing our concerns to the assistant district attorneys assigned to the Grand Jury, we discovered that these issues had previously been addressed by legislation proposed by the District Attorneys General Conference which we have adopted above.

"Crooks with Guns"

We commend our own police department for its proactive role in the passage of this much needed legislation. The adequate funding of this new measure will certainly increase the incarceration time for criminals using weapons in the commission of crimes. Hopefully, it will reduce the number of gun-related crimes and the number of illicit guns in the state. Literally, countless times the Grand Jury was presented with evidence from officers who were executing legal raids and search warrants where felony amounts of narcotics and paraphernalia were found and where dangerous weapons were present. This in and of itself is based in the homeowner's right to protect his/her property. The law is that the homeowner or tenant can keep a gun(s) in his/her home without a permit. A person with felony convictions can possess hunting or sporting type firearms including, but not limited to rifles, carbines, and shotguns. Felony convictions should prohibit all ownership of these types of weapons.

Legislation should be considered that would make possession of a weapon a felony if possessed while selling, delivering, manufacturing or possessing felony amounts or narcotics. These weapons should include but not be limited to the following: handgun, rifle, shotgun, or edge blades. These charges shall be included even if weapons are found in a private home or business. We would also like to recommend that the sentencing of the crimes upon guilty verdict by a jury of the defendant(s) peers, to be served consecutively to the drug convictions.

The Grand Jury would respectfully suggest that the Tennessee General Assembly examine this code section and at the very least allow for the confiscation of these weapons when found on the premises where a felony drug offense is committed.

Sexual Assault/Failure to Register Sex Offenders/Domestic Violence

There is a pilot program within Davidson County that monitors sexual predators and offenders with GPS communications via ankle bracelet. This program assists the office to monitor date of time and location of convicted offenders at home or office of the supervising officers. This program should be given all available resources available necessary to continue the success of the safety of our children and citizens of Davidson County.

Narcotic Offenses

Remarkably, the majority of crimes heard by the Grand Jury involved narcotics in one form or another. While the drug culture knows no socio-economic boundaries, it does manifest itself in certain ways across all levels of society. Police officers who exclusively handle drug cases say that prescription drugs are becoming considerably more prevalent. Prescription pain killers are stolen, sold, bought, bartered and even counterfeited due to the high demand and ultimate street value. Other types of prescription medicines are misused to a slightly lesser degree. The traffic in marijuana and other street drugs such as crack, methamphetamine and ecstasy is equally as prolific. Methamphetamine, however, remains a more rural than urban problem. The Grand Jury again commends the Nashville Police Department for its internal policies that lead to a greater degree of discovery of these and other drugs.

On the more positive side of the drug issue is the Drug Court of Judge Seth Norman. Drug Court IV is a magnificent study of human life. A residential drug rehabilitation program for repeat non-violent offenders, the Drug Court offers as a last stop in the judicial system a way for long-term offenders to genuinely pay their debt before re-entering society. After meeting strict requirements and advancing through the structured levels of the program, residents of Judge Norman's nationally acclaimed model are made to work first at the facility, and then permitted to work in jobs they have found on their own in the general public. One third of their salary pays for room and board at the facility, one third goes to court costs and fines and the remaining one third is kept in savings for the ultimate completion of their sentence and release back into the community. Failure to comply with the rules of the Drug Court results in a return to incarceration for the maximum sentence under law. The taxpaying public should know that it is vastly less expensive and more productive to treat drug offenders in this setting versus traditional incarceration. Several cities and states are studying Nashville's Drug Court in anticipation of replicating the success of this program.

Traffic Violations/DUI

Please review the enforcement of the intoxication laws concerning restaurants and lounges servicing alcohol to their patrons. The concern to the Grand Jury is that businesses serve alcohol to already intoxicated patrons of Davidson County and the legal liability that is expected upon all parties.

Environmental Court

If a person(s) who has received a summons or citation to appear before an Environmental proceeding does not appear before the court, this wastes the time, patience, and financial gains that have been allocated for Davidson County. The failure to appear before the presiding judge constitutes a simple and unsubstantial fine. While serving on Davidson County Grand Jury, we have heard of cases where the defendant of animal cruelty and so forth failed to appear before court numerous times. These infractions shall be treated with the same respect and honor that a criminal proceeding demands and expects. Henceforth, failure to appear to environmental court summons shall have the same punishment as a failure to appear for a criminal court summons. By having these type of stipulations mandated by the Tennessee General Assembly and made into law, this would limit the manpower of animal services and other services to constantly having to serve citations on repeated offenders, when their only punishment will be a menial fine and no possibility of incarceration.

Areas for Improvement

During the Grand Jury proceedings, jurors had the opportunity to visit areas of interest to evaluate and provide feedback on changes. Areas of interest that the Grand Jury visited are as following:

- **Drug Court**

This is already described in the body of the report. This area has had a profound impact on the perception of many Grand Jurors.

- **Davidson County Medical Examiner**

It is both comforting and reassuring to learn of the care and professionalism shown the families of all decedents autopsied by the Office of the Medical Examiner. Metro Government contracts with the State of Tennessee Medical Examiner's Office for autopsy services. This state-of-the-art facility, located in Nashville, not only performs the official autopsies for Davidson County but for seventy-seven additional counties of the ninety-five counties in Tennessee as well. In calendar year 2006, the Medical Examiner performed 2,175 autopsies for Davidson County and the other counties under contract. All were conducted with the utmost attention according to the strictest national standards and confidentiality.

- **Juvenile Court**

The mission of the Juvenile Court is to provide judicial decisions, safety support, and guidance products to children and families who come in contact with the Court so they can be productive members of the community.

Accomplishments include maintaining an 80% "incident free" business day during 2006 (2) implementing 50% of the recommended changes provided to the department and (3) the successful Chaplin's Program, Case Management Services, and Educational Program.

Goals include (1) to provide enhanced security to the Center (2) to reduce the number of court delays/continuances and (3) to shift grant funded core Juvenile Court functions from unstable to stable funding for the purpose of assuring that children and families of Davidson County will experience uninterrupted delivery of essential services.

Concerns include (1) increased cases involving mental illness, drug/alcohol use (child and/or family member), and how this increases caseloads (2) crowded conditions in the court that can and do lead to an unstable, unsafe environment for the staff, visitors, and children in custody (3) continued reduction of grant funds and (4) the lack of availability to current, accurate, electronic case file information which negatively impacts the Court's ability to comply with federal/state mandated and statutory timelines.

Recommendation include (1) increased and permanent funding (2) increased staff (security concerns) and (3) the need for additional space (privacy) for children-attorney-family meetings prior to hearings.

- **Police Academy**

Davidson County Grand Jury members toured the Police Training Academy on June 19, 2007. The grade of the training and spirit of the recruits was impeccable and reassuring that the highest level protection will be unadulterated.

- **Police Ride Alongs**

Four members of the Grand Jury had the opportunity to ride along with officers from their precinct based on the area that he or she lived in. Each officer, that had the opportunity to be selected in this task, presented great respect and honor to his or her position while serving all citizens of Davidson County. Some areas or precincts are in desperate need for additional equipment and manpower needs. There is a vast number of electronic equipment in which officers rely on to perform their duties in a proper and efficient manner. Computer systems using an operating system that has been not supported since July 11, 2006 is unacceptable. These systems crashed and caused delays in officer response to citizens. Officers had to use personal cell phones to communicate with other officers on citizen calls because it was convenient to use as opposed to radio usage. These officers use their own finances to pay for these without reimbursement. While the patrol officer has a sidearm and shotgun in the vehicle, supervisors are the only personnel allowed to possess a taser weapon and only K9 and SWAT officers have sufficient protection against the criminal element in Davidson County with the use of a long rifle. All officers shall be allowed to combat the criminal element with the same or better equipment in the field. This can be achieved by the following: when weapons are seized under the "Crooks with Guns"

section has been fulfilled, the gains from these endeavors shall be put back to the officers equipment needs. For the safety of your family and friends, there is no price heavy enough to achieve this goal. Officer safety is the primary goal for the officers while protecting all Davidson County citizens and visiting tourists. One Grand Jury member placed his application to the Metro Police Department to assist in a safer community. A special thanks to Officer David Washington for his professionalism and dedication to the residents of East Nashville.

Closing

The assemblage of thirteen laypersons for the purpose of serving as a “buffer” between the people and the Courts is a fascinating concept. It is most beneficial as established and maintained in Davidson County, Tennessee where the Grand Jury functions totally independent of influence from the state (the District Attorney). Testimony from the prosecutors, mainly police officers, is heard in total secrecy. The resulting deliberations and votes of True Bill or No True Bill are equally as secret. The Final Report is the best effort of the Grand Jury to summarize its observations and actions over the period of its term. To better learn the true experience of being a police officer, some Grand Jurors rode along with patrol officers and witnessed a wide variety of crimes in progress and complaints resolved. Any legal questions that arose during Grand Jury proceedings were answered by calling the Grand Jury to recess for the purpose of hearing from one of the Assistant Districts Attorney who was always available to provide logical, rational answers to what must have seemed like a never-ending barrage of redundant questions from the Jurors. This methodology worked extremely well and made for a better process all around. This Grand Jury wishes to acknowledge the tireless efforts of Assistant Districts Attorney Rodney Faulk, Michaela Mathews and Mary Housman for patiently answering our many questions and helping to keep us focused on our sworn duty. Each member feels it a privilege to have volunteered and been chosen for Grand Jury duty. From the empanelment to the adjournment of each Grand Jury, the system grows stronger and all persons involved are better served by its design. We are all appreciative and proud to have played our part in furthering the workings of the Davidson County Grand Jury.

GRAND JURORS

Bill Covington
Grand Jury Foreperson