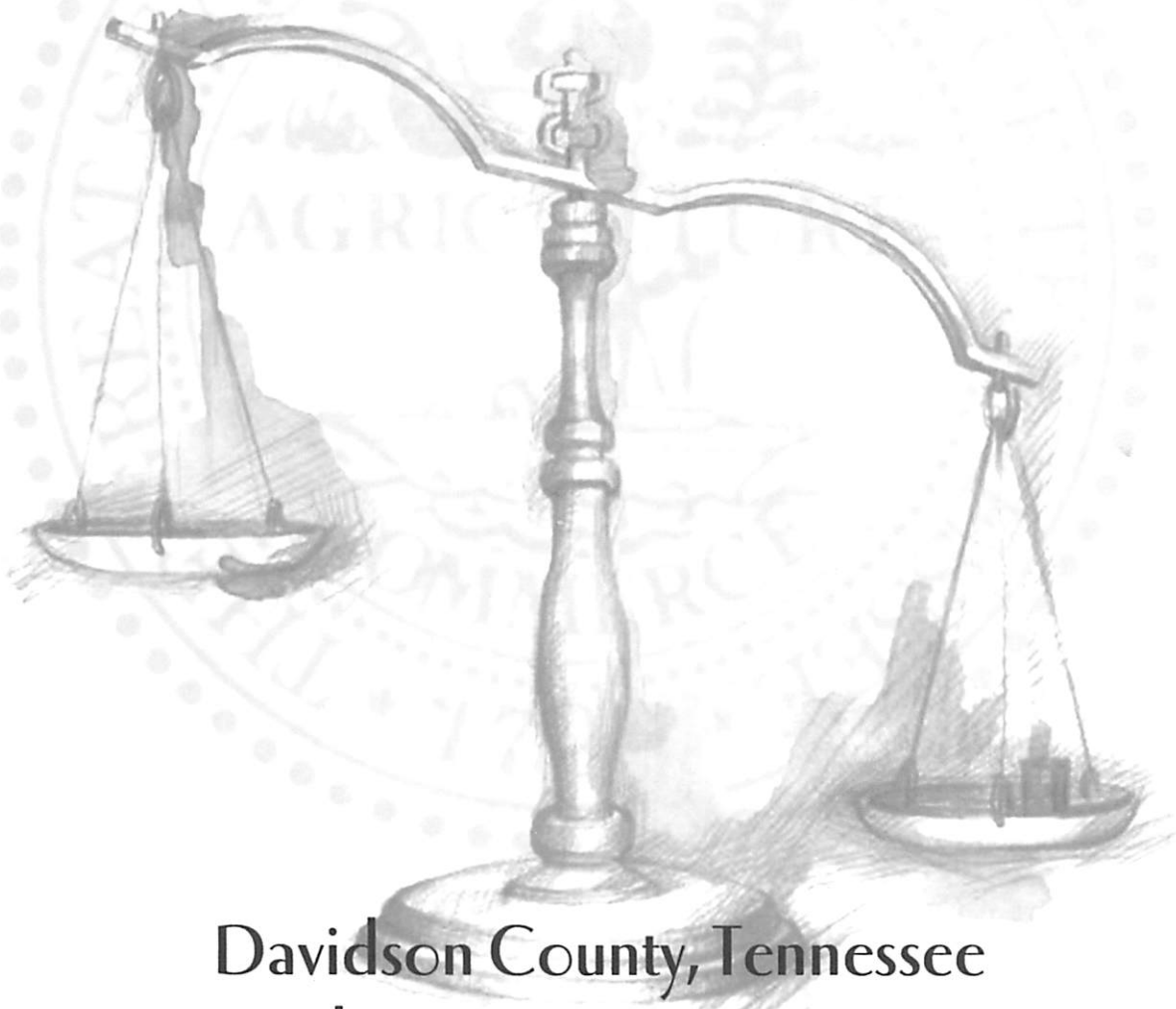
Grand Jury Final Report

The Honorable Seth Norman
Criminal Court, Division IV



Davidson County, Tennessee
April 7, 2008 - June 27, 2008

REPORT OF THE GRAND JURY OF DAVIDSON COUNTY
APRIL TERM, 2008

The members of the Davidson County Grand Jury for the April 2008 term are truly grateful to have had the opportunity to serve our community. The time we spent as jurors has given us a significant amount of knowledge about the work of the police department, district attorney's office, and the courts. We have also learned a great deal about crime in Nashville and the various components of our criminal justice system.

Serving under the leadership of our foreman, Mr. Richard Hillenbrand, has been a wonderful experience. His expertise was invaluable when we had questions about the meaning of the different types of charges as we were presented with each case. He also did a remarkable job of facilitating the various trips we took, scheduling speakers, and setting up ride-alongs with the police department. It has been a pleasure to work with Mr. Hillenbrand and all of us would be happy to serve with him again, if given the opportunity to do so.

In accordance with Tennessee Rules of Criminal Procedure, the Grand Jury deliberated upon 1291 cases over the past three months. We presented the court with 1282 True Bills and 9 No True Bills. We feel that we have been diligent in deciding if the charges were appropriate and justified and determining if a prima facie case was made by the witness appearing before us.

We would like to thank the following individuals for taking the time to provide us with information that helped us perform our duties:

District Attorney General Victor (Torry) Johnson, III gave us an excellent overview of the history of the grand jury, our duties and responsibilities, and our role in the judicial process.

Chief of Police, Ronal Serpas, spent several hours with us discussing the work of the police department and their efforts to combat crime in our community. He shared a lot of data with us, but probably the most significant thing we learned was that the same individuals are responsible for most of the criminal activity in Nashville.

The recidivism rate in Davidson County is a huge problem. Of the 13,684 persons arrested over the past twelve months, 76.1% were previously arrested for some other

offense and nearly 50% of them were arrested for the exact same crime. Metro Police have identified 446 individuals who have been arrested numerous times for the same or similar offenses. These 446 criminals have been arrested a total of 10,377 times. That means that on average, each of them has been arrested 23 times. It is very frustrating to police officers to have to arrest these same individuals over and over again. It appears to us that the only way to reduce the recidivism rate is by incarcerating repeat offenders for longer jail terms without the opportunity for early parole.

Captain Todd Henry of the the Drug Task Force gave us a detailed look at the world of illegal drug trafficking in Nashville. He brought along samples of various drugs and drug paraphernalia. The education we received from his presentation was very valuable because we heard an extremely large number of drug related cases.

Captain Rita Baker from the Domestic Violence Division gave us an excellent presentation on domestic assaults, and child abuse and neglect. We were dismayed to learn that the police department received 17,000 reports of domestic violence last year and that 30% of emergency room visits are due to domestic assaults. We did learn that there are lots of resources available to victims of domestic violence in Nashville and feel that these agencies, along with the Metro Police Department, are doing an excellent job.

The Grand Jury heard several cases that involved child neglect, child abuse, and sex related crimes committed against children. Frequently, we felt that the bond set for an individual arrested for this type of crime was set too low, and we recommended that it be increased. We also observed that too often there appears to be a lack of communication between the police department and the State Department of Children's Services. We recommend that a liaison person be appointed within the police department to coordinate and facilitate information and communication between law enforcement and the DCS.

We inspected the DCSO Criminal Justice Center, the Police Training Academy, the medical examiner's lab, the TBI, the Nashville Airport Police, Juvenile Court, Riverbend State Prison, and the Davidson County Community Corrections Drug Court. We were given reasonable access to these facilities and had an opportunity to ask many questions. Additionally, we attended a Metro Nashville Police Department Crime Analysis meeting, or Comstat.

All arrestees are brought to the Criminal Justice Center for booking. The booking room appeared to meet the needs of the police department, and procedures for classifying an individual and assigning a housing location seemed to go smoothly. The jail itself was

clean and well maintained. Prisoners were provided with appropriate clothing and food, and medical services were provided as needed. We commend the correctional staff at the Justice Center for their dedication and excellent work.

The police department does a remarkable job training new recruits. The academy grounds includes facilities for training patrol officers, the aviation unit, and the canine division. Overall, we were very impressed with all three sections. However, we did observe that the training room used to simulate entering a room or house where there may be armed individuals was in shabby condition. We also noted that some areas of the building seemed a bit small and makeshift in nature. We feel that the police department needs and deserves better facilities.

The Grand Jury was very impressed with the detailed investigative work of the TBI and the state of the art forensic capabilities of the medical examiner's office. We commend both departments for their outstanding work. This year's approved funding of a DNA Lab for the Metro Police Department will help identify criminals expediently and accurately and reduce the demand on the TBI lab. We applaud Mayor Dean for approving this funding.

We would like to thank Grand Jury member, Corporal Gower Mills of the Tennessee Department of Corrections, for giving us a tour of the Riverbend Maximum Security Institution. We inspected most areas of the prison and offer the following observations:

- The facility has a very high level of security.
- The prison grounds and the prison itself are both in immaculate condition.
- Inmates appear to be treated well.
- Inmates have adequate access to recreation.
- Inmates have adequate access to standard hygiene necessities.
- Inmates are served very good meals.
- There appears to be an adequate number of staff members.

The remainder of our report focuses on the three areas of greatest concern to this Grand Jury based upon the cases we heard, the testimony of police and others involved with law enforcement, and our visitations to the Juvenile Justice Center and Judge Norman's Drug Court.

Juvenile Crime

Juvenile crime and its recidivism rate is a huge problem in our community. Last year, 6,981 petitions were filed in Juvenile Court for cases of delinquency. The police department arrested 775 individuals under the age of eighteen for one of the following charges: Homicide, Robbery, Aggravated Assault, Burglary, a Drug Offense, or a Weapons Violation. Of those arrested, 84% had been previously arrested for another offense.

The January, 2008 term Grand Jury felt that the solution to the problem of juvenile crime would require a broad based approach that brought together the resources of the Juvenile Court, the Police Department, and Metro Nashville Public Schools. We certainly agree and applaud Mayor Dean for initiating "summit meetings" with city leaders and other citizens to develop plans for reducing the juvenile crime rate. This Grand Jury would also recommend that the Tennessee State Legislature begin to examine and revise the laws and penalties which apply to juvenile crime.

Our meeting with Judge Green and subsequent tour of the Juvenile Justice Center (JJC) resulted in quite literally the same conclusion of previous grand juries for the past several years. That is, we found that Judge Green and the staff at the JJC to be exemplary in their work and dedication to helping young people, while the facility itself was woefully inadequate in numerous ways. Specifically, we noted the following serious deficiencies:

1. The outside recreation area is uncovered, and therefore unusable during inclement weather.

2. The room for visitation also doubles for a staff training room.

3. The door to the courtroom is located in the female housing area. This creates significant problems when it is necessary to escort a male to the courtroom.

4. The number and size of the classrooms at the JJC are inadequate.

5. The demand for temporary incarceration of juveniles greatly exceeds the capacity of the center.

6. The windows in the male cells face Woodland Street or South 1st Street. Before and after Titan's games, both streets are crowed with people. Some juvenile inmates

engage in exposing themselves at these windows. This problem could easily be corrected by coating these windows with a dark tint, like is done on automobiles.

7. The JJC lacks a gymnasium for playing organized team sports.

8. There are not enough shower stalls for the number of residents housed at the facility.

9. There is no available parking for staff members in the immediate vicinity of the center. Staff members have to walk several blocks to their parking area.

10. The JJC has repeatedly asked that all of the glass in cells and classrooms be replaced with a shatterproof type. During our visitation, we saw the glass window of a holding room that had been shattered by a very upset and angry resident. This individual is lucky that he did not sustain a serious and possibly life threatening injury. We feel that there absolutely no excuse for not replacing all of the non-shatter proof glass immediately.

These same problems at the Juvenile Justice Center have been noted by grand juries for the past several years. We strongly recommend that Mayor Dean begin a conversation with the Metro Council, Judge Green, Chief Serpas and with citizens about replacing this facility within the next few years.

The education department at the JJC is recognized by Metro Public schools as a school. Detainees receive six hours of classes just like their peers in other schools across the county. Attendance is taken every day, and the principal reports this information to Metro Public Schools on a regular basis so that the students are counted as present. This allows Metro to receive state funds for these students, just as they do for every other student in attendance on any given day. However, the JJC School is the only Metro school that (1) receives no textbooks, (2) receives no supplies, (3) is provided with no technology resources, and (4) is given only one teacher.

The Grand Jury strongly urges Mayor Dean to contact Director of Schools, Chris Henson, and ask him to provide appropriate textbooks, a minimum level of supplies, and technology support and resources beginning with the 2008-2009 school year.

DUI Offenses

We are very concerned about the number of impaired drivers that travel on our roads every single day of the week. The Grand Jury was literally inundated with DUI cases,

and frequently the offender was driving on a suspended or revoked license. During the past three months, approximately 300 DUI cases were brought before us. All too often, we were shocked to find out that the defendant had been arrested for driving under the influence of alcohol or some other intoxicant two, three, four or more times previously.

The Tennessean reported that during the first five months of this year, 1,917 individuals were arrested for DUI. This is a 38% increase over the same time period last year. Because of the backlog this creates, many of those arrested will not go to court for almost a year, leaving them free to drink and drive again and again. This is a deplorable situation.

While we applaud Governor Bredesen for signing into law a mandatory 48 hours of jail time for any DUI conviction, we wish that the incarceration time was longer. We also feel that mandatory jail time should be required of anyone driving on a suspended or revoked license. Additionally, we concur with other grand juries who have suggested that individuals be required to show a valid driver's license and proof of insurance when obtaining new license plates or renewal tags.

Illegal Drug Use and Sales

The majority of the cases we heard involved the use of illegal drugs, the selling of illegal drugs, or more often than not, both. The drugs being bought, sold and used were typically either cocaine or marijuana. We also heard numerous cases in which the defendant was selling a variety of prescription drugs.

What we found to be incomprehensible was just how brazen these criminals are. They sell on street corners, they sell outside of gas stations, they sell around convenience stores, and they sell out of their homes and automobiles with impunity. One dealer even had the audacity to print up business cards with a made-up name for his drug business and his cell phone number.

For the most part, the charges brought against these criminals were appropriate. However, in several cases, we found that the defendant should not have been charged with selling drugs in a school zone. For example, if someone was stopped for a traffic violation and found to have a sufficient quantity of drugs in their possession to be charged with intent to sell, they should not be charged with selling in a school zone. It is our recommendation that the statute for drugs in a school zone be examined and more clearly defined.

We commend The Metro Police Department for doing an excellent job taking drug dealers off the street. Last year about 9,000 people (750 per month) were arrested for a drug related crime. Of those, 56% had previously been arrested for a similar offense. The problem is enormous and defies a solution other than more arrests and more jail time. These cases are clogging our courts, filling the prisons, and costing taxpayers millions of dollars every year.

The Grand Jury was pleased to learn of a unique program for nonviolent drug offenders, The Davidson County Community Corrections Drug Court started by Judge Seth Norman about eleven years ago. The purpose of the Drug Court is to give drug users a chance to "turn their life around" if they are motivated to do so. Moving offenders away from prison and into treatment is cost effective and a more humane way of treating individuals with an addiction disease.

The Grand Jury was very impressed with Judge Norman's Drug Court, and we do not understand why it has not been expanded and replicated across the state. The cost per inmate per day at Riverbend Prison is $62.00 while the cost at the Drug Court is just $45.00. The savings to taxpayers is about $620,000 per year. Furthermore, the program has a proven record of success. Approximately 65% of those completing the program return to society and become productive taxpaying citizens. While we understand that not everyone convicted of a drug offense is eligible attend the Drug Court program and there are, of course, those who are not motivated to go, we know that there are hundreds of inmates in prisons all over Tennessee who would benefit.

We commend Judge Norman and the staff at the Community Corrections Drug court for the outstanding work they are doing. We recommend, in the strongest way possible, that the program be expanded here in Davidson County and replicated around the state. We also would like to see a similar program be developed for juveniles who commit serious crimes or have a history of repeat offenses.

The Grand Jury would also like to bring attention to a type of drug crime which appears to be increasing on a daily basis. About a dozen or more cases of TennCare fraud were brought to us. These TennCare patients had fraudulently obtained prescriptions for an assortment of legal drugs. They then turned around and sold them for a 100% profit. We learned that there are over 1,800 pending investigations of TennCare fraud being handled by just 13 officers. We are concerned about this situation and recommend that additional resources be employed to combat the problem.

Miscellaneous Recommendations

Occasionally, an officer would bring a new recruit with them when they presented before us. We felt that this was an excellent idea and strongly recommend that police officers always bring their trainees with them. It also would be beneficial for all officers to have some training in how to present a case to the Grand Jury.

The hand written process of keeping a record of the dispensation of each case brought before the Grand Jury is archaic and cumbersome. There is always the possibility of human error when writing down case numbers, handwriting can be difficult to read, and storing the log books from each Grand Jury takes up a lot of space. We recommend that record keeping be done on a computer and stored electronically.

As mentioned earlier in this report, we were inundated with DUI cases and the data collected by the police department since January of this year suggests that future Grand Juries will have to spend even more time on this type of offense. With this in mind, we recommend that all DUI cases be scheduled for the first and third Friday of each month in order to expedite the processing of these cases and allow more time the rest of the month for hearing all other type cases.

The copy machine given to the Grand Jury for its use is nonfunctional and needs to be replaced.

Closing

The Metro Police Officers who appeared before us did an outstanding job presenting their cases. We have developed a newfound respect and admiration for the work these dedicated professionals do twenty-four hours a day, seven days a week.

Many thanks to Assistant District Attorney Faulk for always being around to give us legal advice. We would have been lost without the help of legal secretaries, Lori Hooberry and Sonya Newbell who organized all the paperwork and prepared our docket each day. And, we greatly appreciated Court Officer, Laura Ramsey, for driving us anyplace we chose to visit.

On the day we were sworn in, Judge Norman told us that our work on the Grand Jury would be "an eye opening experience." He was right. All of us have learned so much about the problems associated with crime in our community and the efforts of police, the

district attorney, and the court to provide all of us with a safe place to live and work. We are proud to have an opportunity to assist those in law enforcement and to have been of service to our community.

Finally, we have to commend and congratulate Metro's Cold Case Unit for its investigative dedication and perseverance of crimes that are old ... even as much as 33 years old.

Respectfully submitted,

Richard Hillenbrand, Foreman

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Rita Hardeman

Lattie Brown

Cherrie Holt

Shelia Cantarutti

Daniel Kuster

Jonathan Scott Carpenter

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