

Final Report
Davidson County Grand Jury
April Term, 2011
April 4 – June 24, 2011

Part One – Findings and Experiences

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Part One
Findings and Experiences

This session of the Grand Jury has been one of the most interesting things many of us has ever done. We come from all walks of life. We have learned so much about the justice system that many of us had not known. Our main job as grand jurors was to determine if a crime was probably committed and if the defendant probably committed the crime. Our decision was whether the indictment presented to us was a True or No True Bill.

Since none of us were attorneys, we required some education about the many different types of crimes which are committed and what is needed as proof of those crimes before the Grand Jury. Part of this education was provided in presentations from Davidson County District Attorney Torry Johnson and his staff, the 20th Judicial District Drug Task Force, and the Sex Abuse, DUI, Gang, Domestic Abuse and Special Investigations units of the Metro Police Department and the Presiding Judges of the General Sessions and Trial Courts. Further background was provided by visits to the General Sessions and Trial Courts, Riverbend Prison, the Davidson County Drug Court, the Police Training Academy, the Police Aviation Unit, and the Davidson County Juvenile Court. A brief summary of the information we gathered follows.

We learned from the District Attorney how crimes are classified as either felonies or misdemeanors. With felonies there is a plea of guilty or a trial in court. Misdemeanors maximum sentence is 11 months 29 days and most of these are resolved in General Sessions court. With felonies, there are levels of severity with level A and B, which are crimes against individuals and are the most serious. Levels C, D, and E are crimes against property and are not physical against people. Drug cases, due to their nature, are a level A crime and have a sentence of 15-25 years. Out of 95,000 arrests, 80,000 were misdemeanors. The remainder of the cases were felonies.

The Grand Jury only hears the state's side of a case. We do not face attorneys or the defendant accused of the crime. The Petit Jury handles that side of the case. All persons are presumed innocent until proven guilty. Bail can be requested and the amount will be set based on the severity of the crime. A low bail may be set for things like DUI and driving without a license. There has to be determination of probable cause. Information must be obtained by talking to the police and get case evidence, officer's statements,

witnesses, forensic and physical evidence. All the evidence is summarized to determine the indictment. An indictment may be different than what the original supposed crime would be. To charge a person with a crime is called counts. One person, one crime = one count. One person, numerous crimes = numerous counts. Numerous people with one crime = one count. Numerous persons with numerous crimes = numerous counts.

12 votes are required to return an indictment. A report is provided to the Judge each week. Once reported, it cannot be changed. A "no true" bill can be sent back to another Grand Jury. All no true bills are reviewed. In a session there can be anywhere from 1-60 no true bills returned. There is no specific number, but most fall around 20-25 per quarterly session.

The Grand Jury is over 1,000 years old. This is to enforce the law, but not to the detriment of the people. The Grand Jury is a buffer between the state and the people. The Grand Jury does not have to agree with a Judge's findings.

The defendant is provided a copy of the indictment, and with an attorney, must make a plea of either guilty or innocent. The Judge hands out a scheduling order. Discovery is the evidence of proof against the defendant. A motion has to be filed to request to have a testimony thrown out. This is done during hearings preliminary to trial. 95% of all cases are resolved by agreement (plea bargain). Once the case goes to the Jury, they must believe beyond a reasonable doubt the person is guilty or innocent. This basically means the jury must determine in their heart and mind they can rest easy with the decision they made. If the defendant pleads guilty, they serve the sentence. If convicted, they can appeal automatically. The appeal must first go before a Judge and secondly before a 3 Judge Court of Appeals. If the 3 Judge Court of Appeals agrees to send it back, it goes back to the same judge.

Various persons come in to present the cases. No attorneys are sent to the Grand Jury Room unless they are requested to provide legal advice. Most cases are presented by a single person. We may not hear all cases. There could be times when cases could be dismissed. Everyone has a right to a jury trial. There are 10 crimes in Tennessee which are especially horrific. Cases which would come directly to the Grand Jury are Complex cases and Extradition cases.

The Drug Task force came in and presented information to make our responsibilities easier. There are a huge amount of drug cases including DUI. They explained all the drug classifications. There are 7 different levels potential for abuse. A Schedule 1 drug with a high potential for abuse is marijuana. The second highest is cocaine. There are a lot of synthetic drugs out on the market. Every time one is banned, they change something in the chemical structure and put it back out again. The state of Tennessee is number 1 for Methamphetamine labs in the nation. Ninety percent of drug labs seized are Meth labs. There are hallucinogens, stimulants, and depressants. Prescription drug abuse is 2nd behind marijuana

The Child Sex Abuse Unit came in. Most children are intimidated by their abusers so they will not tell. DCS sets up the Forensic interviews and schedules medical exams for the abused child. The Sex Crimes Unit and DCS go to the investigation together. The most unbelievable thing we heard was the age of consent for sexual activity in the state of Tennessee is 13. If there is less than 4 years difference in age of the sex partner, it is not illegal to have sex under the age of 18. If there is an age difference of 4 or more years, it is statutory rape. General Hospital nurses are trained specifically for sex abuse cases. Five or six nurses are on call at all times who are sexual-assault trained. If a child is age 12 or under, there is no statute of limitation for prosecution of rape. If the person is age 13 or older, there is normally 5 years to prosecute for the rape. We learned we can put in our zip code to find out if sexual offenders/predators live in our area. Child pornography is another area for sexual predators. The majority of child pornography is of children ages 5-13. Honduras is a large creator and provider of child pornography.

What is DUI? DUI is driving under the influence. This can be alcohol, drugs, or alcohol and drugs.

There are 3 stages for DUI:

1. Vehicle in motion.
2. Personal contact.
3. Pre-arrest screening.

The Standardized Field Sobriety Tasks are:

1. Horizontal gaze.
2. One legged stand.
3. Walk and Turn

For truck drivers, cab drivers, and bus drivers the legal blood alcohol content level is .04 to be considered DUI. For individuals age 16-20 the legal blood alcohol content is .03 - .07 to be considered DWI (driving while impaired). For individuals age 21 and over the legal blood alcohol content is .08 to be considered DUI. A breath or blood test can determine the level. You lose your driver's license for a year if you refuse a chemical test. If you allow an intoxicated person to drive your car and you are in the car with them you will also be cited. For a first offense you spend 24 hours in jail and 24 hours yard/highway trash detail plus you lose your license for 1 year and can be fined \$350 - \$1,500. For a second offense you spend 45 days in jail and lose your license for 2 years. For a third offense you spend 120 days in jail, a fine of \$3,000 - \$15,000 and lose your license for 3-5 years. For a fourth offense you go to prison for 1 year. DUI stays on your record for 10 years. Tennessee has the strictest DUI laws in the United States. The police run your SSN to get a history of all traffic violations (DUI's) on your record.

The Gang Unit came in to give us information on crimes committed by gangs. This is under TCA 40-35-121. Tennessee law designates a gang is 3 or more persons in criminal behavior, colors, moniker, symbol/dress and claim a territory or turf. Federal law requires there to be 5 or more to be considered a gang. Al Capone invented the "drive-by". Most gangs originally were Italian based or Irish based. White gangs started in the 1920's. During prohibition, Black and Latin gangs started. Hispanic gangs started in the 1940's (White Fence / Sleepy Lagoon). Folks, People Nation started in the 1960's in Chicago. CRIPS started in the 1960's in L.A. BLOODS started in the early 1970's.

MS-13 started in 1980 in L.A. SKINHEADS started in the 1980's in Europe. IBER gangs started in 1990-present. Most gangs are developing in youth homes or on the streets. Nortena = Northern and Sureno = Southern. Most colors are Blue or red. PEOPLE NATION was created by Jeff Fort. David Barksdale started the DISCIPLES gang. Raymond Washington started the CRIPS in Los Angeles. Piru Streets CRIPS left the CRIP Alliance and created the BLOODS. BLACK P STONES & BRIMS formed an alliance with Piru. MEXICAN MAFIA BLACK HAND formed in California prison system. Norteno = Red and 14. Sureno = Blue and 13. Sureno aligned with the Mexican Mafia. Gangs need a criminal purpose such as homicide or narcotics trafficking. They also need a street name. The 5 point star, or 5 point crown, or pyramid with 21 bricks is a symbol you will see on clothes or tattoos. Folk Nation has a 6 point star. The gangs "throw" hand signs at other gangs, which mean nothing to most people, but to other gang members it is usually a confrontation of sorts. Street gangs' purpose is drugs, extortion, weapons sales or possession, intimidation, robberies (home invasions), and other criminal activities. There are 52 identified street gangs and about 5,000 gang members. Most kids are recruited in middle school for gangs. The Mexican Border Patrol is very lax as most heroin and terrorists come in through Mexico. How to join a gang? You are "jumped" in, commit a crime or mission, "walk in/blessed in" or form your own gang (OG), "sexed-in" (females) or "beat in".

There must be 10 points on field interview form to be designated as gang members.

Indicators for gang members:

1. Dress
2. Moniker
3. Hair
4. Hand signs
5. Jewelry
6. Tattoos
7. Photos
8. Sports gear
9. Letters
10. Music
11. Dance

What influences them?

They are influenced by family, friends, music, TV, magazines, and video games. The average age of a gang member is 16. They are 85-90% male, 70% low achieving students, 77% come from single parent homes, 80% are low income and 66% have siblings with arrest records. In Nashville 13% of all juveniles are confirmed gang members. In Average America we find 10% of all juveniles that are confirmed gang members. Birmingham, Alabama does not tract their gang members. MS-13 gang members are known for rape, control, and kill.

The types of Street gang members are:

1. Hardcore
2. Associate
3. At Risk / want to be's (wannabe's)
4. Going to be's (gonnabe's)

R.E.S.P.E.C.T. is fear to a gang member. They communicate via internet, my space, and facebook. Gang members like to keep communities intimidated. Intimidation is power to them. They increase crime rate and cause decreases in property value. Neighborhoods decline. 2004 the Gang Unit was created. In 2010 the Gang Unit expanded to 18 detectives. New laws were created to fight violent and drug related gang crimes. Increased joint investigations and cooperation with Federal Agencies has helped increase the number of arrests. Since the inception of Operation Safer Streets, over 9003 individuals have been arrested. Gang Prevention starts at home.

The Domestic Abuse Unit talked to us about the types of victims and the types of batterers which come from all walks of life. Inflicting or attempting to inflict damage to someone related by blood, marriage, or in the household, and/or inflict malicious damage to personal property is considered to be domestic abuse. Dating relationships begin after the first date. History allowed for wives to be beaten. In 1871 Alabama became the first state to pass the law to remove the right to beat wives. Domestic violence is never justified. It's not all about anger management or stress management. It is about obtaining power and control. Using intimidation is also abuse. Abuse of pets is also a form of violence. Isolation is a strong form of domestic violence. The purpose of isolation is to separate the person from any support they may have. Women also commit violence. Most abusers say they were "just playing or just wrestling." Some abusers use children to relay messages to the person being intimidated. Children see violence in the home and grow up to be violent. Threatening to take children away is a form of intimidation. Using male privilege "King of the Castle" negating women to the lesser person is a form of abuse. Some abusers will limit access to the family income in order to control the other. Emotional abuse is humiliating the other person in front of friends. Saying things to the other person such as; "You're so fat, you're so stupid, no one would have you" are forms of abuse. This can start with increased tension, anger, or blaming and progressing to battering or slapping.

Signs of abuse to watch for in a relationship:

1. Quick involvement (unrealistic) such as saying you love someone only after a first date or they want to spend the rest of their life with you.
2. Isolation
3. Hypersensitivity (blow off the handle at the least thing)
4. Cruelty to animals

Abusers tend to be in 2 categories:

1. Pit Bulls – Snap
2. Cobras – Stalk and strike.

Pit Bulls use violence against spouses. They are all about control.

Cobras are 90% anti-social and are often criminals. They also use weapons and isolation to control their victims. In Nashville, 75% of the deaths from domestic abuse have never called the police. The reason most women stay in an abusive relationship is because they are afraid of being killed. It takes a strong, hard decision to prosecute. If the police are called because of domestic abuse, and the victim refuses to prosecute, the Domestic Violence Unit can prosecute for them. Spousal rape is against the law in Tennessee. It can take years to realize a victim of abuse. 80% of children in abusive homes grow up to be either victims or abusers. If you let a child batter a parent they will grow up to abuse.

Elder abuse is handled by APS (Adult Protective Services). These cases are handled by two detectives who do nothing but work elder abuse cases. Tennessee has the broadest domestic violence (laws) policies.

Judge Binkley came in to talk to us. He has been a Judge for 3 years. Prior to being a judge he was a trial attorney for over 40 years. He is over the 5th Circuit Court. He hears any kind of civil litigation.

Judge Angie Dalton is the Judge for Division III General Sessions Court. General Sessions Court hears cases when they first come in. They do not hear Felonies unless they are settled when they come into court. Civil cases cannot exceed \$25,000. They hear lease agreement disputes, traffic cases, and involuntary commitment cases at the mental hospital. They heard 447,000 cases in 2010 and 483,000 cases in 2009. They have a \$10M budget and 109 employees. If a warrant is being sought in the evening you must go to night court. She determines if a case can be settled in her courts. General Sessions & Night court is open 365 days a year. Court is ALWAYS open. They have to rotate the courts because there are 11 judges and only 10 courtrooms. If a case is continued, it stays with the Judge until it is completed. They have a Saturday Jail Docket. General Sessions Judges are Metro employees, while Trial Court Judges are State employees. In 2010 41,000 citations were issued. The cited person comes to the Birch Building to be fingerprinted and booked. The D.A. reviews the file and pulls up the criminal history to determine if the case can be resolved right then. 60% of all cases are usually resolved when they first come in. 40% go to the Bond Docket.

We had a detective from the Special Investigations Domestic Terrorism come in to speak. They handle things such as bomb threats against Metro school buildings. There are people who consider themselves as Sovereign Citizens. These persons are normally anti-government people. They use the laws to swing things the way they want them to be. A lot of these persons are previous military or police. They will listen to a sheriff because he was elected, whereas, they will not listen to the police chief because he was appointed to his position. They do not believe in Judges or the right to be detained. These persons will put liens against Judges, Police officers, or the everyday person. They do not believe in licensing their cars or obtaining a drivers license. They will file a lien or lawsuit against anybody. They also file Civil actions against people, which is basically Paper Terrorism. They will ask for payment in gold. Idaho & Iowa have a large number of these people. The Militia and Sovereign Citizens are intertwined. There are approximately 1,000 in Tennessee. Extremists groups are growing.

We went to General Sessions Court and observed the process used for accepting pleas. The docket observed was one where the defendants were in jail. It was interesting to observe that the judge was careful to explain each defendant's rights under the law. During a brief question and answer session with the Judge we learned that, occasionally, some individuals are jailed on minor offenses such as driving without a license. We also visited Fourth Circuit Court and had the opportunity to observe proceedings related to divorces.

We went to Riverbend Maximum Security Prison. We toured Death Row and talked briefly to an inmate. The cells on death row are very small. They have 1 narrow window looking outside and 1 narrow window looking into the pod where they are housed. They have a small opening in the door where their food is passed through. We visited the Execution Chamber. A couple of the jurors sat in the Electric Chair. We saw the viewing areas where the victim's family sits and the other room where the inmate's family sits. The inmate's family comes in at the last minute and is the first to leave after the execution is completed. The exercise area for Maximum Security prisoners are like huge wire cages. This allows them to be outside in the air but not to touch another prisoner. They have a library where they can check out books. Most of the books are law books. Books can be donated to the prison. They have a crafts area for the minimum security prisoners. The prison was very clean.

We visited the Drug Court. This is a program which Judge Norman set up. This is for people convicted of a drug crime but not a violent crime. This gives them a chance to clean up their lives and get a second chance. They come in and are placed in a dorm. They wear striped uniforms for the first 3 weeks. Once they complete the trial period they are able to wear their street clothes. They have work shops where they can learn trades such as refinish furniture, repair small items, repair and/or paint cars. They have woodworking, auto repair, and small engine repair work shops. After they earn the right to go out and work, (they must find a job on their own) they go to work each day and return each evening. Part of what they earn goes to pay for their room and board. Each person who is successful on the program will be returned to society to complete their sentence on probation. If they mess up, they go back to prison.

We took a trip to the police academy. The guns confiscated from crimes are put into the property room. In the past, these guns were made into man-hole covers. The police are no longer allowed to destroy these guns. The current requirement is to sell them; however, this would just place guns back into the hands of the criminals again. The person who handles the weapons for the police department is a civil service employee. He knew quite a bit about all the various types of guns on the street. He builds some of the special weapons the police use. We went down to where the helicopters are housed. This is also the canine training area. The dogs were out the day we were there. They were tracking a suspect. The helicopters and their equipment was truly awesome. The helicopter pilots are there to assist the police on the ground. Many times a suspect will get where the police can't see them but it is hard to hide from the police in the air. They have a FLIR system which can detect body heat on the ground. This is how they can assist in finding a suspect. They sometimes will take a police dog and its owner if there is a need to get there quicker than they can arrive on the ground. We took a ride in the helicopter to see what the police see. They fly fairly low to stay out of others' air space. They have GPS systems and a camera which projects on their screen. It was really fun to be able to be in the air and see things a lot closer than you can in an airplane. We could actually read the names on the buildings below.

We went to Juvenile Court. Most kids are there for 45 days or less. The Juvenile Court will try to keep the children in the Juvenile Justice System if they can be re-

integrated back in to society. If a crime is especially heinous they can be transferred to adult court. This is not done very often. The kids in the G4S Davidson County Juvenile Detention Center have a full day. They go to school from 8:30 am – 3:30 pm Monday – Friday. They have things to do from the time they get up until the time they go to bed. The children have a different bedtime based on their behavior. Level 1 has a bedtime of 8 PM. Level 2 has a bedtime of 9:00 PM and Level 3 has a bedtime of 9:45 PM. If you come in there and have not graduated, dropped out of school or whatever, you can get your GED. They have outside areas for exercise. These areas have 4 walls but no cover overhead. If it is extremely hot, extremely cold, raining, or snowing, they can't use the exercise areas. There needs to be some kind of cover so it can be used at any time.

We heard 921 cases. The number of true bills was 911. The number of no true bills was 10.

Grand Jury Duty is something everyone should do at least once in their life. We truly enjoyed it. We got to learn more about what is happening around us and how the laws work. We went places we may not normally have ever visited. We heard things most people would not believe. It is something we will do again if and when we can..

Part Two Recommendations

The General Assembly is strongly encouraged to raise the age of consent. As a starting point, we recommend the age of 16 since this is the age where a court order is required for the issuance of a marriage license.

A review of policies and the law related to minor traffic offenses should be undertaken to determine if there are less expensive and more effective methods of enforcing such things as the driver's license laws.

The exercise yard in the juvenile detention facility was open to the elements and thus virtually unusable in cold, rainy, or extremely hot weather. Adding a roof to this area would appear to be a simple matter and greatly improve the usefulness of the space. We also noted the lack of exercise equipment. When asked about this lack we were informed that the equipment in use prior to the flood had been discarded during the rehabilitation of the space and replacement equipment promised. We believe that the replacement equipment delivery should be expedited. There also appears to be continuing issues with rainwater infiltration. These issues should be addressed by the responsible agency with the highest priority.

The law prohibiting police departments from destroying firearms that are confiscated as the result of criminal prosecutions should be repealed.

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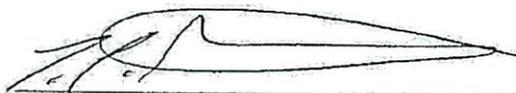
Part Three
Final Thoughts

The number and severity of child abuse, particularly child sex abuse, cases we heard was disturbing. From mothers passing their drug addiction to their newborns to parents and grandparents sexually assaulting children under the age of 8 there were entirely too many of these cases. We have no solutions to offer but we would hope that those in the field would continue to fight this scourge.

We, like many citizens, were unaware of the number of violent drug and gang related crimes that occur in our city. Many of the cases presented to us were not murders only because the defendants did not hit their target as intended.

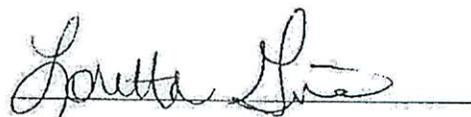
We would be remiss if we did not express our sincere appreciation and deep respect for the professional men and women we encountered during this extraordinary experience. The citizens of Metropolitan Nashville and Davidson County should be proud of their Police Department and District Attorney's Office. Their courts, Trial, General Sessions and Juvenile are efficient and models for this state. From all appearances the, Sheriff's Office and the Department of Corrections do a good job of handling the individuals committed to their care. The Davidson County Drug Court is a model for the nation and that program should be replicated statewide.

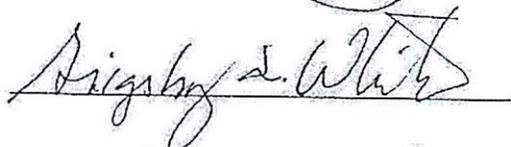
Finally, we are grateful to Judge Seth Norman and his staff for making this opportunity available to us and for all their efforts in making our service go smoothly.

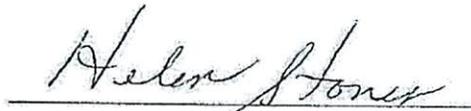

Foreman

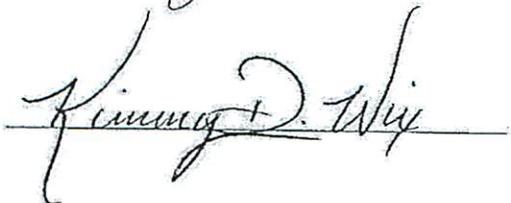


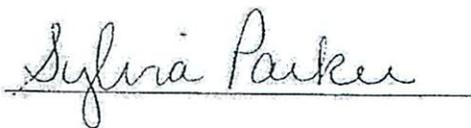








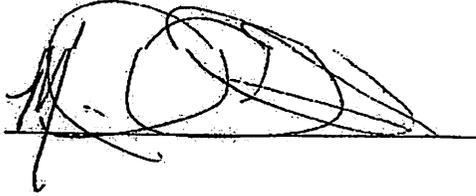




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June 24, 2011