

**Criminal Court, Division 1, January Term 2006 Grand Jury
Final Report**

The Grand Jurors of the January 2006 term submit the following report in summary of our experiences over the past three months of the Grand Jury.

During our three-month term, we heard 894 cases, of which 883 were determined to be True Bills and 11 No True Bills. Our ability to hear and process these cases was due to the initial orientation provided by District Attorney, General Torry Johnson, the on-going assistance provided by attorneys in the District Attorney's Office, and the constant guidance by our Foreman, Stan Fossick.

A summary of the observations, issues, and suggestions arising from our intense experience as Jurors on the Grand Jury are as follows:

1) "Buying Time"...

We are terribly concerned about the time it took for many of our cases to reach the Grand Jury, especially the DUI cases. In many cases the arrest had been made over a year before the case reached our deliberation. That is too much time for the public to be subjected to continuing and dangerous behavior before consequences are put into place. We strongly suggest the establishment of a DUI Grand Jury that will serve only in this capacity, allowing the regular Grand Jury the time to process more non-DUI cases and provide more assistance to the District Attorney's office. We would also like to set the requirement that all DUI cases bound over to the Grand Jury be heard within 30 days. We know that this concern has been noted by many prior Grand Juries so we hope that it will finally be taken seriously and corrected.

2) DUI's...

To protect the public, DUI offenders lose their license to drive an automobile. The purpose of this remedy, we believe, is to keep the offender from endangering the public through continued driving while under the influence. This protection does not seem to work. On many occasions of repeated arrests for DUI, the offender is driving on a revoked or suspended license. This issue must be addressed as it constitutes a failure on the part of our justice system to provide exactly what it is established to protect. We suggest the use of breath-controlled ignition

devices as well as immediately confiscating an offender's driver's license and the automobile for repeat offenders. Before being eligible to retrieve their car, some form of substance abuse treatment and monitoring of offenders should be required.

3) Drugs...

Other than DUIs and domestic situations, the majority of cases that we heard were related to the use and trafficking in drugs. Items acquired through theft were sold for drug money. In most cases, acts of violence are also drug-related. As such, a majority of our Police Department resources should be channeled into drug suppression. From our discussions with detectives and officers, there are known areas of drug sales as well as specific locations of drug traffic. Known locations and known offenders should be sought out and arrested through viable police methods. It is a recurring and escalating menace that must be mitigated. It is time that as a city, we say... "not here, you won't!!!"

4) Domestic Violence...

Our Grand Jury benefited greatly from the presentation of Captain Rita Baker from the Domestic Violence Unit. We suggest that this short orientation be provided to juries that may be expected to hear a domestic violence trial. We also noted the high rate of recurrence in domestic violence with the same offenders. Our concern is that too often the "Order of Protection" obtained by victims does not deter a violent offender. Other measures must be devised that will provide protection and safety for the victim.

5) Juvenile Court...

We enjoyed our orientation to Juvenile Court and our question/answer session with Judge Green and her staff. Having read recent stories about what can be best described as a disconnect between the Department of Children Services and Juvenile Court, Grand Jury members were surprised to learn that DCS is not required to carry out a juvenile court judge's recommendation on disposition of the juvenile in custody. Our concerns seem to be validated by the recent series of escapes and "walk-offs" of juveniles in the custody of DCS...some only to reappear through their arrest in the commission of another crime. We feel that the public would be better served if these two entities (Juvenile Court and DCS) demonstrated more of a symbiotic relationship, or at least aspire to reflect a spirit of cooperation that would most likely help both achieve their goals more effectively.

6) The Police Department ..

We were impressed with the straight-forwardness of the officers and detectives who presented cases to us. In most cases they were articulate, knowledgeable about their material, and able to provide logical answers to our questions. We enjoyed our conversation with Chief Serpas and found him to be an engaging and convincing personality. However, the concerns we had prior to meeting Chief Serpas about operational changes remained. While recognizing that none of the jurors have a law enforcement background, we believe our concerns are valid and are included in this report as follows:

a) **Mission One...** Our concern is with the undercover police officers who feel that they must serve on Mission One. Chief Serpas assured us that no one is knowingly being compromised by Mission One and that undercover police may opt out. Still, we feel that those serving undercover should be excused from Mission One during their time as an undercover officer. In doing so, you lessen the chance of further exposure in an already dangerous situation.

b) **Lojac and car thefts..**
During our time as Grand Jurors, we were amazed at the low number of car thefts occurring in Nashville. Except in cases that also held a drug-related component, auto theft was practically non-existent. We were informed about a system known as Lojac which Nashville is purchasing to be used in combating car theft. We wonder if these resources that are to be used in purchasing Lojac might be better utilized in fighting the number one problem...drugs. In the same vein, even though the process of writing traffic tickets produces some drug-related arrests, we wonder if some of the resources dedicated to ticket-writing might better be targeted to mid-level drug dealers.

c) **Decentralization..**
Chief Serpas provided us with the logic behind his move toward decentralization. In many ways, it makes the Police Department much more of a partner in the crime-fighting process that needs to occur in each of Nashville's neighborhoods. However, we question the decision to dismantle centralized units that were established to solve murders and investigate robberies. Two pieces of data make us question that decision. For one, Nashville had award-winning departments in Homicide and Robbery before being dismantled. In the last 15 months, incidence rates of these two crimes have risen dramatically. Decentralization works well for some functions, but not so well for others.

d) **Morale...**

There is no question that morale is low within the current Police Department. Chief Serpas has come to Nashville to be an agent of change, and he has been that. However, in launching sweeping reforms, he may have "thrown the baby out with the bathwater". Complicated systems need complex adjustments, and police department operation and structure has undergone fundamental changes. It is our fear that Chief Serpas, in his honest desire to improve the Department's performance, may have moved too swiftly and universally for the Department and its officers to make an effective transition. We fear that there is a distance between the Chief and his officers that must be bridged for the sake of the Department and the Community.

7) **The Grand Jury Process...**

It concerned us that often officers and detectives were forced to spend significant time waiting to present their cases. In some instances, we understood that the officer was presenting to us on his or her day off. We understand that it is difficult to schedule so many cases into one session, but we ask the District Attorney's office to look into ways in which it can minimize the waiting time of the officers who are asked to present cases and, if possible, not to schedule an appearance on an officer's day off. We also wish to state that there is a marked difference in our ability to discern between a True Bill and a No True Bill when the presenting officer is also the arresting officer. When we were presented information written by a third party, we felt unable in many cases to ascertain what actually happened. We therefore recommend that the practice of substituting an officer to present the case of another officer be kept to the barest minimum.

In the course of our service as the Grand Jury, the District Attorney requested our input regarding three cases that he was researching that involved the deaths of three citizens while under the control of the Police Department.

All three of these cases involved police officers under stress. Just as a stress test for one's heart reveals abnormalities and inefficiencies at intense performance levels, these three cases indicate weaknesses in the current structure of police performance. At these levels of stress, having policies and procedures, and the strict adherence to them, are the only way to maintain optimum performance. These three cases reveal underlying weaknesses in training and adherence to policy.

The first of these involved a case of cocaine ingestion where the suspect, Calvin Branch, died while in his holding cell one hour after the arrest. We determined that no crime was committed by the officers in not taking the suspect to the

hospital, as there was no way to confirm that cocaine had been ingested. In addition there were seemingly no complaints by the suspect and no requests for medical treatment. However, the loss of crucial reports and the altering of reports of others, along with the cover-up activities involving the bag of marijuana found at the scene, do appear to be criminal in nature. We urge the Metropolitan Police Department's Office of Professional Accountability to take the appropriate and necessary action and that it be swift and meaningful. While "tampering with governmental reports" is an option, we feel strongly that those in a position of authority and power be held to a higher standard.

Our second case involved the death of a suspect, James D. Denham, from the accidental discharge of an officer's weapon. In this case we found no crime involved, but encourage the Police Department to retrain officers in the handling of lethal force and, in particular, this officer.

Our third case involved the use of multiple Tazer contacts in the submission of Patrick Lee, a suspect who later died on the scene. The medical examiner's office concluded that the death was from excited delirium and that the Tazer contact was not the causative factor. It is the opinion of several members of our Jury that the multiple Tazer contacts contributed to the excited delirium. However, the intent of the police officers on the site was to subdue rather than harm the suspect, as witnessed by one officer pleading with the suspect to stay down. A few jurors felt that the suspect's behavior did not warrant the number of officers on the scene and the repeated use of the Tazer, especially when not achieving the desired result; however, all jurors agreed that no crime was committed. Lastly, it should be noted that blood specimens revealed the presence of LSD and marijuana; LSD intoxication is a known cause of excited delirium. This should serve as vivid reminder of the dangers and possible consequences of illegal drug use.

Our several field trips were entertaining and educational. We were terribly impressed with Judge Norman's Drug Court and the behavioral and attitudinal changes in repeated drug felons. Our visits to both men's and women's prisons helped us understand the manner in which behavior is controlled within our prisons and how there are opportunities for self-improvement inside. The visit to the Medical Examiner's office was reassuring in the manner given to the process of conducting investigations in a respectful and professional way. The visit to the Tennessee Bureau of Investigation was impressive in the sophistication of the technology used, as well as the enthusiasm of those who work there.

We all wish to thank Judge Dozier for giving us the opportunity to serve as jurors and want him to know that we each

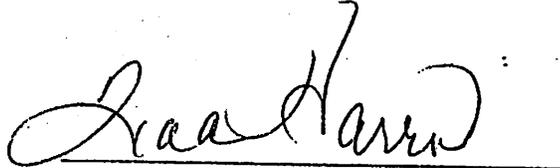
benefited greatly from the experience. Our understanding of the judicial system and law enforcement processes within our community will no longer be such a mystery to us.

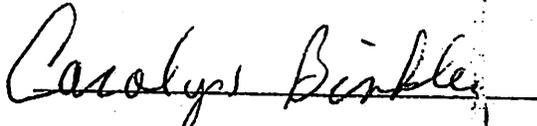
We thank the officers and detectives that presented cases to us and all of those associated with the District Attorney's office who have helped us process our decisions.

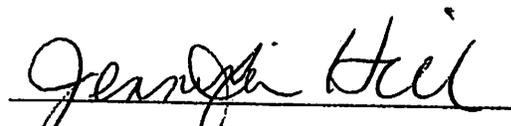
We also wish to convey our heartfelt thanks to Stan Fossick, to whom our appreciation is immeasurable.


Stan Fossick - Grand Jury Foreman


LaTonya Mays-Bass - Juror

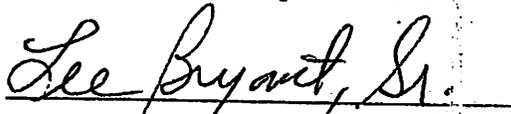

Tina Harris - Juror


Carolyn Binkley - Juror


Jennifer Hill - Juror

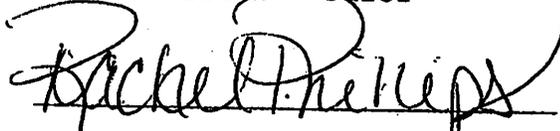

Rose Blankenship - Juror

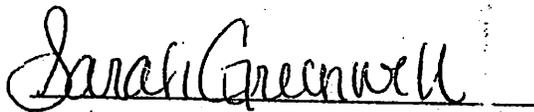

Rusty Lawrence - Juror

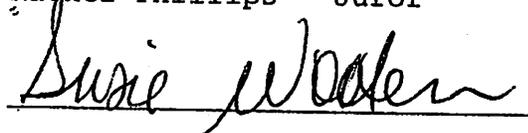

Lee Bryant, Sr. - Juror


Rozell Patton - Juror


Jacob Choate - Juror


Rachel Phillips - Juror


Sarah Greenwell - Juror


Susie Wooten - Juror