

## **Grand Jury report January – March 2011**

The members of the Davidson County Jury submit this report at the conclusion of our three-month term.

In accordance with Tennessee Rules of Criminal Procedure, the grand jurors heard and deliberated upon 995 cases over the past three months. We presented the court with:

- Bound over: 885 True Bills, 3 No True Bills
- Sealed: 105 True Bills and 2 No True Bills.

The jury also established a three-member panel to hear a presentment from Mr. John Jay Hooker regarding judicial appointment and elections in Tennessee; and sat as a panel-in-full to hear presentations and consider facts regarding the Aug. 17, 2011, death of inmate Charles Jason Frank Toll at the Tennessee Department of Correction's Riverbend Maximum Security Institution, in Davidson County.

It has been an honor and privilege to serve our fellow citizens as Grand Jurors, and we express our appreciation and thanks to:

**Judge Cheryl Blackburn**, for impaneling us as jurors and providing excellent guidance to the Grand Jury process from the outset;

**Foreperson Judy Bawcum**, for outstanding guidance to her fellow jurors, for her education of fellow jurors on the nuances of different indictments and charges, for her detailed questions to presenters and attention to detail on documents, and her insights in the operations and policies of various law enforcement and criminal justice agencies;

**District Attorney General Victor "Torry" Johnson** for his excellent overview of the role, duties and responsibilities of the Grand Jury;

**Grand Jury liaison Donna Draper** for her daily concern and attention to the efficient functioning of the Grand Jury and her assistance in arranging logistics related to visits by the Grand Jury to various institutions;

**Metropolitan Nashville Police Department Sgt. David Liles** for his regular, efficient and accurate summaries of cases, which assisted the Grand Jury in effectively considering many of the cases bound over to it, We also commend his manner and knowledge in responding to frequent questions of fact and in our inquiries as to laws and legal procedures.

**Grand Jury Secretary Lori Hooberry** for her effective work in presenting the Grand Jury with accurate case lists and legal forms and documents needed for effective handling of proposed indictments.

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We also wish to thank assistant district attorneys and others in that office, the police officers who presented direct testimony, and other court personnel who assisted us in our work throughout the term. We found these officials, administrators and staff to be courteous, professional and focused on bringing to justice those who would commit crimes and endanger the peace and safety of our fellow citizens.

The Grand Jury benefited from several presentations to jurors, on-site inspections and briefings. This Grand Jury heard from representatives of the Metropolitan Nashville Police Department, including units focused on anti-drug enforcement, gangs, domestic violence, the department Training Academy, and flight operations. We found very productive our visit to the Riverbend Maximum Security Institution, enhanced by detailed presentations by corrections officers and administrators. Many members of the Grand Jury rode with Metro police officers on patrols, and rode on helicopter patrols with the Metro Flight Operations unit.

The presentations, on-site visits and ride opportunities enabled Grand Jurors to have a better understanding of the operating circumstances, resources and procedures of departments and institutions involved in the justice system in Davidson County.

As to the Grand Jury process, we recommend additional instruction early in each jury's term regarding legal terms, possible charges and the process from arrest to indictment, as a means to improve individual jurors' understanding of presentments from police officers and others.

## **PRESENTMENTS**

### **JOHN JAY HOOKER PRESENTMENT**

Mr. John Jay Hooker provided sworn testimony on Feb. 9, 2011, before a special hearing committee of the Grand Jury regarding his belief that the current system of appointing state appellate judges and Supreme Court justices is unconstitutional, as well as allegations of criminal violations by state Supreme Court justices with regard to the retention-by-election system. Mr. Hooker's testimony began at approximately 11:30 a.m. CT, and concluded at approximately 12:15 p.m. CT. After due consideration and discussion, the special hearing committee did not find sufficient evidence of criminal activity to warrant consideration by the entire Grand Jury. The special hearing committee appreciated Mr. Hooker's concerns, but decided the issue is not a matter for the Grand Jury to consider.

### **REVIEW OF INMATE DEATH AT RIVERBEND MAXIMUM SECURITY INSTALLATION**

In sessions on March 1, March 4, March 6 and March 11, totaling more than 8.5 hours, the Grand Jury reviewed facts and circumstances regarding the Aug. 17, 2010, death of inmate

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Charles Jason Frank Toll while in custody of the Tennessee Department of Corrections, at the Riverbend Maximum Security Institution, in Nashville.

Grand Jurors heard and discussed presentations from Investigator Hugh Coleman of the District Attorney General's office, 20<sup>th</sup> Judicial District; and from Davidson County Medical Examiner Dr. Amy McMaster, whose office previously had ruled Mr. Toll's death a "homicide," defined as "death at the hands of another;" and Grand Jurors reviewed two video recordings.

After review and deliberation, this Grand Jury does not find probable cause a crime was committed, nor does it find criminal conduct for which an indictment of any individual might be presented.

TDOC The Grand Jury offers the following recommendations as our collective opinion on how to improve TDOC extraction practices as we understand them:

- 1) A prior review should be conducted by qualified TDOC medical staff as to an inmate's general health and special medical conditions, before an inmate extraction begins except for emergency circumstances;
- 2) Prior to an inmate extraction, a logistics review should be conducted by TDOC corrections officers or staff to ensure rapid, secure movement through passages and doors, and that proper interior and exterior lighting is in proper operation;
- 3) An emergency key to unlock and provide access to individual cells should be present and in the control of corrections officers at the outset of an inmate extraction;
- 4) The TDOC should take immediate steps to upgrade the quality of video recordings made with regard to an inmate extraction, including improved lighting and professional training for a videographer or corrections officer or staff operating the camera;
- 5) An Automated External Defibrillator (AED) be included in equipment on ready stand-by (perhaps in each "pod" living unit within TDOC facilities), and be readied for use prior to extraction to assist inmates, corrections officers and TDOC staff engaged in the strenuous actions involved in inmate extraction;
- 6) TDOC policies and Standard Operating Procedures regarding inmate extraction should be reviewed by a special committee, including at least one corrections officer with extensive, personal experience in inmate extraction.

Such a committee should consider:

- a. Regular refresher courses for all corrections officers and staff in up-to-date CPR procedures, including refresher courses with regard to CPR certification.
- b. A "best practices" review of inmate extraction procedures and policies, encompassing other states and federal prison systems and similar facilities.
- c. A designated "pause" following extraction/removal of an inmate from a cell to a safe area, to be added to TDOC Standard Operating Procedures. The pause should be sufficient for corrections officers and medical personnel to evaluate the inmate's general health and well-being, and to respond to signs of physical distress that

could be life-threatening – recognizing that in some cases such an evaluation may be complicated or rendered impossible by the inmate's conduct or an immediate threat to the safety of corrections officers and medical personnel.

### **GENERAL RECOMMENDATIONS**

**We recommend:**

- (1) The Metropolitan Nashville Police Department review efficiency and victim service of the Sex Crimes unit. A review of the methodology and training of adult and child sex crime investigators should be conducted. A comparison of "best practices" in police agencies as it relates to child and adult cases should be done. The current, consolidated unit operates on a "first-up" system in which officers with primary training in one area may be assigned to the other area as complaints are received. It is our belief, after hearing testimony and reviewing information about training, that a review of this combined unit should provide for more effective and thorough investigations and subsequent prosecution, particularly for complaints involving children, and that as a result the citizens of Davidson County will better be protected.**
  
- (2) The high number of repeat offenders charged again with driving under the influence of alcohol or drugs (or both) and/or driving with revoked driver's license, offers clear evidence – as it has to prior Grand Juries – that our legal system is ineffective at best in reducing criminal conduct in these areas. Current laws and practices also divert police resources from prevention or investigation of other crimes.**

**This Grand Jury is concerned that a "revolving door" of ineffective arrests, fines and revocations of driving privileges leaves the citizens of Davidson County at high risk from repeat offenders. Cognizant that incarceration of repeat offenders carries a significant financial and social cost, Grand Jurors nonetheless recommend that alternative methods of enforcement – including vehicle confiscation and incarceration for those who demonstrate a repeated inability to control their driving in violation – be adopted, and that consistent judicial enforcement of severe penalties be the rule. Also, we recommend methods of alternative transportation, including increased use of an expanded mass transit system in Nashville, be used to allow repeat offenders to make necessary trips for employment and family needs without resorting to illegally operating a private vehicle.**

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- (3) Additional hospitals throughout Davidson County beyond Metro General Hospital be designated and equipped to conduct medical-legal examinations when presented with rape or sexual abuse victims, and that those facilities be prepared to provide for police interviews of those victims concurrent with those examinations.**
- (4) A special state committee be empanelled to develop, and to recommend to appropriate state administrative agencies and legislative committees, alternative and effective procedures with regard to the state Sexual Offender Registry requirements on reporting residency. Grand Jurors found the current system can take excessive time – likely related to insufficient numbers of qualified investigators – to recognize that an offender has failed to properly register and report.**
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For the Grand Jury, January-March 2011:



Judy Bawcum, Foreperson



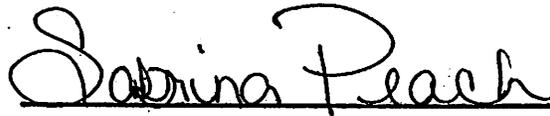
Andrea Bowen



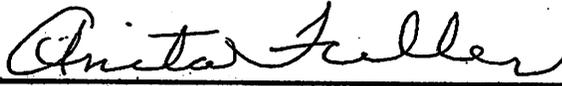
Bennie Nicholson



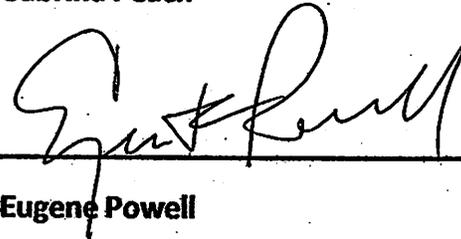
Chester Butler III



Sabrina Peach



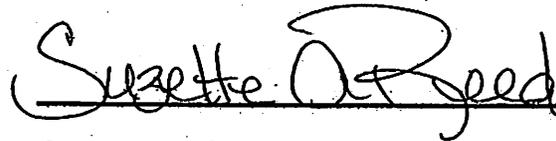
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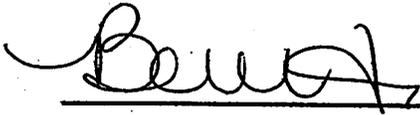
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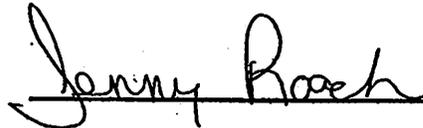
George Gourieux



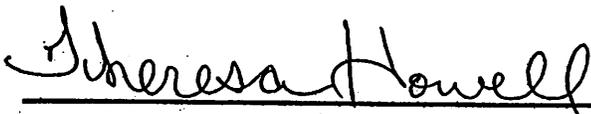
Suzette Reed



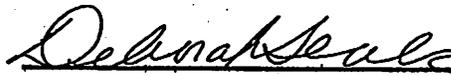
Benita Hassell



Jenny Roach



Theresa Howell



Deborah Seals