

FINAL REPORT OF THE DAVIDSON COUNTY TENNESSEE
GRAND JURY OCTOBER 1997 TERM

I. INTRODUCTION

On behalf of the 12 jurors, the 12 alternates, and myself, we all thank you for the opportunity to serve on the October 1997 Grand Jury. We also thank our jury coordinator, Pat Hunter, for a job well done. It has been a very enlightening and at times, a disturbing experience to try to understand how our judicial system really works. We have heard over 700 cases in a ten-week period. I have requested each juror to give their comments, both pro and con, regarding their feelings. We have taken these comments and will attempt to consolidate them in our final report. Attached to this report is one turned in by a juror that reflects many of our thoughts and I feel should be attached to this report in its entirety.

II. A CASE OF SPECIAL CONCERN

With respect to a case involving the death of an individual after being in custody, we have serious concerns as to the way in which this issue was brought before the Grand Jury.

This case came before the Grand Jury just seven days prior to the expiration of the statute of limitations on some criminal charges which could be considered and applied to individuals who may have had some responsibility for the death.

According to the District Attorney General, in the almost twelve months since the death occurred, he had been unable to come to a conclusion that an indictable offense had been committed in this case or that anyone might be responsible for the death and should be charged with any offense.

The Grand Jury was advised by the District Attorney General that we could make a presentment in the case but that he was not going to pursue any indictment of any party in the absence of a presentment.

The presentment process is available to the Grand Jury in certain instances but the presentment approach is seldom used and for good reason. It is unreasonable to believe that a group of lay people can effectively, with the current structure of the Grand Jury, come to a thoughtful and balanced conclusion involving complicated cases without benefit of investigative staff and legal advice. This problem becomes particularly apparent when a matter as serious as this case, is turned over to the Grand Jury one week prior to the expiration of certain criminal statutes which might be applicable.

The Grand Jury meeting schedule, reflected that the Grand Jury would have a total of three scheduled meetings, with

extensive case agendas already set, between our consideration on this matter and the expiration of certain criminal statutes which might apply in this case.

The Grand Jury did issue presentments in this case on two charges based on the available evidence. These two presentments were, according to the District Attorney, the only two available to the Grand Jury, and the only two that he was willing to sign as indictments after they were presented.

Following the presentments, serious reservations continued to be expressed in subsequent Grand Jury discussions of issues related to this case.

Specifically, one issue of concern to the Grand Jury was the fact that the death had been determined by a board certified forensic pathologist during autopsy to have been a homicide but that determination was later changed to "could not be determined" by the Medical Examiner.

While this change, in and of itself, was noteworthy, subsequent testimony before the Grand Jury would highlight the entire procedure by which the cause and manner of death was determined.

On further review, and after hearing from a second witness, additional issues have come to light in this case, which will not be able to be addressed during the October-December 1997 Grand Jury session.

Specifically, testimony was given indicating that there is a significant possibility that the autopsy done in this case was incomplete. Further, and according to testimony, medical evidence was not collected and not made part of the autopsy report which was subsequently reviewed by external medical experts who were asked to and who did make an independent determination as to the cause and manner of death in this case.

Taken as a whole, these events do not measure up to the standards of justice that citizens of Metropolitan-Davidson County expect. For this reason, the Grand Jury recommends that a subsequent Grand Jury review the facts of this case in detail, along with the report of this Grand Jury and make recommendations during the next Grand Jury cycle to prevent events of this type being repeated.

III. GENERAL CONCERNS OF THE GRAND JURY

A. DISTRICT ATTORNEYS' OFFICE

The cooperation from the District Attorney's office has been excellent, but the docket has always been very full. Possibly too many cases to be heard in one morning without a lunch break. We know we can always stop for lunch, but with many witnesses waiting, it is difficult to ignore them. When we have 40 cases in one day some arrangement needs to be made for a lunch break and schedule some witnesses not to come in till 12:30 p.m. We recommend a schedule of 25 in the morning and the remainder after lunch.

Also, it would expedite our work by having 2 clerks with us to do the required paper work so the 2 jurors doing the work can have more time to concentrate on listening to the witness to enable them to make a proper decision on a true bill or a no true bill.

B. PROSECUTION OF DRUG CASES

We spend many hours listening to drug cases that are all repetition. Too much time is wasted on drug cases with no prosecution except a probated sentence. This is not going to solve the drug problem which is very, very serious. Our outstanding and dedicated police force are very discouraged and frustrated because the same people keep being arrested and are back out in the street before the night is over. Unless something is done to make the punishment greater for drug abuse there will be no way to control the drug problem which is a very sorry and sad situation.

C. VISITS TO PENAL INSTITUTIONS

We visited the River Bend Security Prison and were very impressed with the organization of the prison. It is actually too nice for the prisoners, especially the ones on death row who have more luxuries than any other group.

We also visited the city jail and found the conditions not quite as clean and nice, but satisfactory.

The most embarrassing area is the 7th floor of the Courthouse. Conditions are filthy, messy, and overcrowded. There has to be a better place to keep the records documents other than in old vacated cells. There is only one security guard for control and supervision of prisoners concentrated in that area; prisoners who are either awaiting trial or to talk to their lawyers.

I understand \$100,000.00 was appropriated by the Mayor to improve these horrible conditions; the money was later withdrawn which was an unwise decision. A remedy must be found for this situation in order to avoid an incident that would be embarrassing to the Nashville Community. With all the money the City has spent on other things, this area should be given a higher priority.

D. FUNDING LAW ENFORCEMENT

In hearing almost three months of cases before the Grand Jury it is now obvious that we have a problem with the allocation of tax resources. While the public is perpetually concerned about crime and punishment for crime, inadequate tax dollars have been allocated to these problems. Our police are understaffed, underfunded, and underequipped. We were amazed at the relatively nominal police resources available to address such pressing concerns as domestic violence, and drug enforcement. In these areas of concern both the police and District Attorney's office appear to be almost overwhelmed with the volume of problems presented to them. The responsibility must ultimately rest with the voting public, which after all elects the political leaders who allocate our tax resources.

IV. PROCEDURAL RECOMMENDATIONS

A. Each member of each successive Grand Jury should be provided by the Court with a copy of the previous Grand Jury's report at the time they are sworn in. This simple act would help each successive Grand Jury do a better job and help both regular and alternate members of the Grand Jury be better prepared to serve. It would also be helpful if the Court or the District Attorney would, at the commencement of the term, explain to the Grand Jury the process by which a case results in an appearance before the Grand Jury, commencing with arrest, preliminary court appearances, evaluation of the case by the District Attorney's office, and preparation of the indictment papers.

B. The District Attorney General and each Judge responsible for a quarterly Grand Jury should review and agree on the instructions each Grand Jury receives, eliminating situations where the District Attorney General instructs the Grand Jury to disregard instructions issued by the Court.

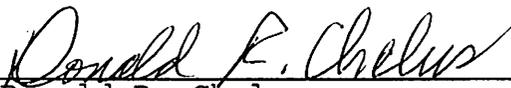
C. The District Attorney General's office should initiate a tracking system which is made available to each successive Grand Jury, and to the media and the public as might be appropriate, which correlates the date of the original offense, the date of the action by the Grand Jury and the ultimate result in court. Recognizing that the volume of cases may prevent this process from being productive for every type of case, an

alternative would be to highlight and track a range of certain serious offenses including homicides, rapes, aggravated assaults, domestic violence and stalking cases, all types of offenses involving children, and drug cases at a certain threshold. A system such as this is necessary to prevent instances where serious and threatening events occur but, because of the existing tracking system, go for months without being brought to the Grand Jury.

D. As noted in Section III the Grand Jury has spent a substantial amount of time listening to drug cases and we have some skepticism about the effective application of punishment to offenders in this area. Moreover, we wonder if the significant volume of drug cases could not be more adequately handled by a separate grand jury specifically devised for such purpose thereby allowing the Grand Jury to devote more time and attention to other, often more complex cases. We are unaware of the procedures used in other states, but wonder if an examination of such procedures might be useful in fashioning a more effective grand jury system.

V. CONCLUSION

It has been an honor to be asked by Judge Seth Norman to serve as foreman of the October 1997 Grand Jury. I hope we have helped in attempting to improve the judicial system in Nashville, Tennessee. Thank you for the opportunity. It has been a pleasure to serve.


Donald R. Chalus
Foreman

OCTOBER 1997 TERM

TO

THE HONORABLE SETH NORMAN DIVISION IV CRIMINAL COURT
THE HONORABLE VICTOR S. JOHNSON DISTRICT ATTORNEY GENERAL

It has been a distinct honor and privilege to serve this community as members of the October term of the Davidson County Grand Jury. I would like to express my deep appreciation to Judge Norman and his staff for doing everything in their power to make our service as enlightening and interesting as possible. I also appreciate the help given and courtesy shown by General Johnson and his staff. And last, but certainly not least, I applaud the diligence, determination and professionalism shown by the many officers of the various city and state organizations that testified before us. The citizens of Nashville should be very proud of their Police Department and I encourage the community to take an active part in assuring that this city becomes a safer place for us all.

"Good job, Officers, and keep up the great work you are doing! Thank you!!"

When the twelve of us were chosen to serve on this august panel, we took a solemn oath based on a fifteen page charge given to us by Judge Norman, and if the Grand Jury is to continue functioning in a positive manner, I urge all future juries to read and re-read that document. Many, many of the witnesses presented to us during our term, were not the most knowledgeable persons available to present the facts and we felt compelled to call additional persons to testify. This could have been avoided if the "Right" witness was made available at the time. I, therefore, encourage the D.A.'s office to: (1) make sure future jurors KNOW that their duty is to QUESTION and decide the indictment based on the facts; and (2) make the CORRECT witness available for testimony.

Our service on this panel gave me eye-opening insight into the criminal activities in this city. Of the hundreds of cases brought before us, I sometimes laughed at some of the absurd ways that crimes occur, I was often angered by what one person will do to another and I was most often saddened and sickened by what I heard. Our hearts were broken by the story of a nine year old girl who was sexually abused by three of her young brothers and her step-father and I was outraged by the mother that took that poor girl to jail to visit the man that abused her. I will have a hard time forgetting this. I was often confused by the many cases of small shoplifting charges that came before us, wondering why I was spending so much time on these misdemeanors. But the one thing that became glaringly evident during the first days of

our term, was the fact that illegal drug use is the underlying cause of 75-80% of all crime in this city. While I realize, all too well, that the jails and the courts are extremely overcrowded, I must stress that anything and everything must be done to curb this horrible disease that is taking over our lives, killing our citizens, destroying our young and depleting our wallets. This vicious cycle of drug users increasing the need for additional drug sellers will never end until the cycle is somehow broken. From the testimony I have heard from our dedicated police officers, such as an officer in the Drug Intervention Task Force whose one traffic stop was responsible for taking Twenty Million Dollars of Heroin off the streets of this country and a detective who is out there on a daily basis and is responsible for removing these vile substances from our community, it is very evident that we are losing this war! I urge the leaders of our community, our law enforcement organizations, and our judicial system to ban together with the citizens to form a single unit to combat this ever growing problem. We must do more to educate our young, enhance their future with positive attitudes, enforce the laws without wavering, and enslave anyone that continues to inflict these chemicals on us.

Barry Ford