

Report of the Davidson County Grand Jury

October Term, 1999

Service on a grand jury is one of the unique experiences of living in a democracy. We have been awed by the responsibility of standing between the prosecutorial power of our government and its ordinary citizens. We have been frustrated by some of the processes. We have been appalled at some of the things that happen in our community. We have been inspired by some of the other acts of kindness, courage and decency.

Grand jury service has involved long hours, personal inconveniences and laughable pay, but great richness of experience. Three months of service has not made us experts on the criminal justice system, but the accumulation of anecdotal experience leads us to several observations.

Most cases presented to the grand jury come from members of the Metropolitan Police Department. At a time when the police are under attack in some quarters, we have been pleasantly surprised by the education, competence, professionalism and good humor of men and women who work under adverse conditions for too little pay and recognition. Daily acts of quiet courage are routine. So are cases of restraint under great provocation. In addition, the police force has begun to reflect the racial, gender and ethnic composition of the community, although our changing demographics require more emphasis in this area.

This grand jury has handled more than 800 cases. But it is our conclusion that Nashville would be a city with very little crime were it not for one factor: the presence of drugs, and in particular crack cocaine. We believe that crack, other drugs and alcohol account for more than 80% of all crimes in Nashville. Addicts steal and burglarize to feed a habit. They peddle drugs for higher-ranking dealers to support that habit. In cases of domestic violence, clean and sober individuals usually do not assault their partners. Drugs lead to homicides, attempted homicides and aggravated assault. Most prostitutes are drug addicts. Those in the drug traffic often possess high powered firearms, usually illegal, to protect their business.

Too many of our citizens shrug off drugs as the problem of the inner city. In fact, it is a problem for the entire community, and it will take a commitment by the entire city to reduce this scourge. For example, in the drug stings that are a daily routine for our vice squad, up to a dozen officers are involved in the arrest of one or two street dealers. That is understandable and commendable for reasons of police safety. However, the manpower could also be used to create safer schools, neighborhoods, streets and business settings.

As those street dealers make their way through the criminal justice system, they consume the time and effort of prosecutors, judges, jurors and jailers. Nashville is in dire need of an additional jail, at a cost of millions of dollars, while students sit in portable classrooms.

Some strategies against drugs seem to be working. We applaud Judge Seth Norman's use of the Drug Court, which provides treatment rather than jail time for those seeking to escape addiction. Its success rate is remarkable; its cost is minimal compared to the alternative. We believe additional facilities to treat addiction, and reduce the demand for street drugs, would be a good investment for the city.

Police have become very aggressive in using criminal trespassing charges against drug dealers who operate on the grounds of public housing units. Enhanced punishment for drug dealing near schools also is a useful tool.

There are more than 300 houses in Nashville that are used almost exclusively for drug activities. We believe the city should move aggressively to close and demolish them; at some point ignorance should not be an excuse for absentee landlords. Some motels in Nashville have become little more than drug houses themselves. We encourage the authorities to move against them, too. At the least, the Metro Council could require them to post a sign at their front desks citing the number of drug arrests on the premises in the previous year.

One procedural matter has troubled this grand jury throughout its term, and it has no easy solution to propose. It has become the practice in Davidson County for each grand jury to delegate its investigative subpoena power--which is enormous in scope--to a dozen individuals in the police department and the district attorney's office. This subpoena power can then be used to obtain the medical, financial, computer, telephone and pager records of any citizen. This has been explained as an effort to reduce the workload and conserve the time of the grand jury, which typically does not receive follow-up reports on the use of its powers.

This grand jury has no evidence to believe or suspect that the process has been abused. In fact, the current practice of limiting the subpoena authority to a dozen individuals may be a reform from a much broader delegation of powers in the past. Still, the potential for misuse and its implications for a free society have been too great for us to ignore.

In this computer age, records have become a key component of criminal prosecutions. Drug dealers, for example, typically operate in a world of cell phones and pagers. Those records can lead to drug suppliers. In too many domestic violence cases, the abused partner is reluctant to prosecute; medical records can provide evidence critical to bringing the matter to court. In the case of medical records, the subpoena has become a convenient shortcut, rather than asking a victim for permission to examine pertinent material.

We can find no statutory authorization for this practice, and an informal survey of judges in Davidson County found them either unaware, or only dimly aware, that such blanket subpoenas were in use. Other than the district attorney, there is no oversight, no public disclosure, and no accountability for these subpoenas. They strike us as an unrestricted fishing license should they reach the wrong hands in the future.

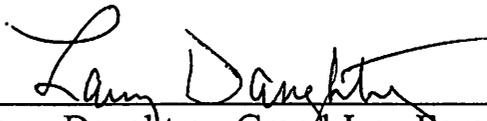
The Fourth Amendment of the U. S. Constitution states: "The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized." Article Seven of the Tennessee Constitution contains similar language.

We hope the district attorney, the criminal judges of Davidson County, state legislators and future grand juries will examine this matter further and provide some safeguards.

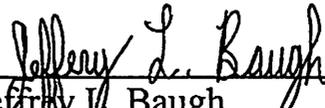
Finally, one task of this grand jury left us with mixed emotions. Because of investigations which concluded as we began to meet, we returned almost 200 indictments involving fraud in the food stamp and Aid to Families with Dependent Children (AFDC) programs. We believe that it is imperative that recipients of public assistance abide by the rules, and that taxpayers understand that safeguards against fraud exist.

The law violations fell into one or both of two categories. People continued to receive food stamps after they had taken jobs (usually at or near the minimum wage), or recipients of AFDC were found to have both parents residing in the home. In other words, people were subjected to criminal penalties when they entered the workforce or attempted to maintain intact families. Those are values our society should encourage, not sanction. We would encourage policy makers to re-evaluate the results of what is clearly a failed social policy.

In conclusion, we would like to extend special thanks to Judge Norman, to Pat Hunter and to Georgia Smith for easing our daily tasks. This public service has been a privilege.



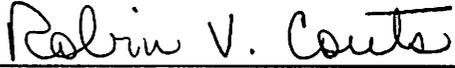
Larry Daughtrey-Grand Jury Foreman



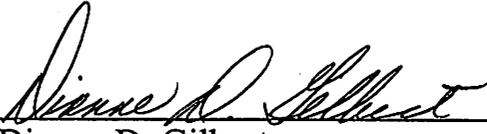
Jeffrey W. Baugh



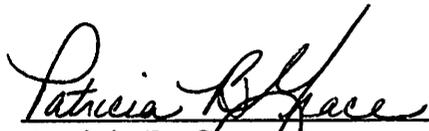
Lee A. Bell



Robin V. Coutts

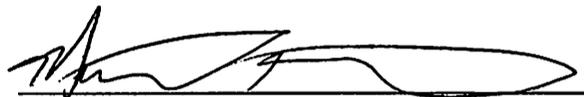


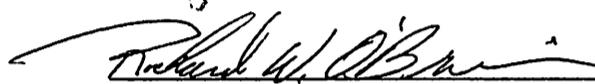
Dianne D. Gilbert

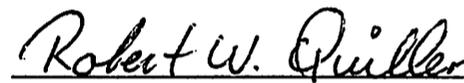

Patricia B. Grace

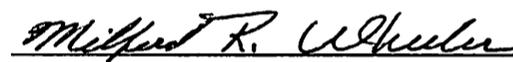

Bonnie J. Lenihan

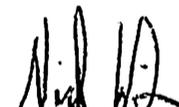

Noel D. Neville


Michael Wayne Northern


Richard W. O'Brien


Robert W. Quillen


Milford R. Wheeler


Nicky D. Winn