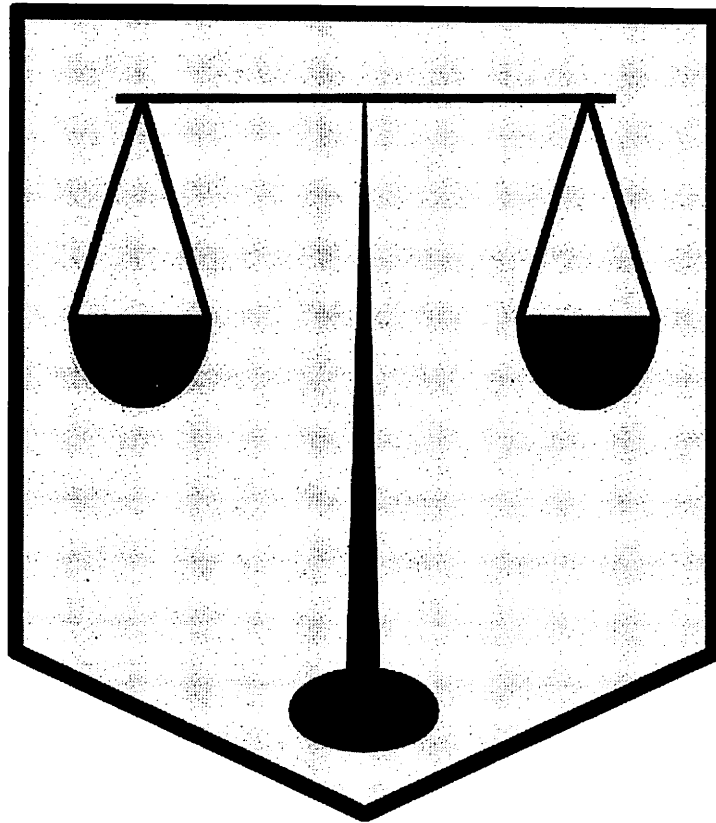


**Grand Jury Final Report
The Honorable Mark J. Fishburn
Criminal Court Division IV
Davidson County, Tennessee**



**Fall Term 2017
October 2 - December 15, 2017
Steve Davis, Foreman**

We, the members of the Metro Davidson County Grand Jury for the Fall 2017 term, as commissioned by the honorable Judge Mark J. Fishburn, present our Final Report documenting our service.

Grand Jury Members

Regular Members

Dianne Benedict
Debra Eden
Douglas Farley
David Graham
Tatiana Kishko
Kandise Lillard
Gayle Lindaman
Cordrea Nance
Philip Schmidt
Sheryl Sweat
David Turner
Charley Vick
Joshua White
Steve Davis, Foreman

Alternate Members

Larissa Caprio
Elizabeth Clem
Janet Dodge
Allison Freeman
Erika Herod
Diane Howard
Elizabeth Howard
Sarah Lewis
Anne Robertson
Olivia Roque-Vargas

Presentations

Before hearing cases we heard instructional presentations from a number of individuals with information relevant to our service on the Grand Jury. These included:

- General Michaela Matthews, Davidson County District Attorney
- Dawn Deaner, Metro Public Defender
- General Glenn Funk, Davidson County District Attorney
- Detective David Slessinger, Child Sex Abuse Unit
- Sue Ross, RN, Our Kids Center
- Detective William Loucks, Drug Task Force
- Detectives Chris Key & Paul Nies, Metro Gangs Unit
- General Rodney Faulk, Davidson County District Attorney
- Bradley Nave, Metro D.U.I. Unit
- Detectives Nate Ellsworth & Christopher Williams, Domestic Violence Unit

- Honorable Judge Gale B. Robinson, Davidson County General Sessions Recovery Court
- Metro Police Chief Steve Anderson
- Daron Hall, Davidson County Sheriff

We found these presentations to be invaluable when deliberating cases during the course of our service, and wish to thank all who willingly gave their time to help bring us up to speed about the many and varied crimes committed in our city and provided initial direction for our deliberations.

Site Visits

Regular and alternate members of the Grand Jury were invited to visit the following locations as part of the educational offerings provided for their service:

- Davidson County Drug Court (DC4), honorable Judge Seth Norman presiding. We wish to thank the court, Director Janet Hobson, and the individuals who gave us the tour, and served us the excellent lunch during our visit of the facility.
- The Police Training Academy. We saw presentations from:
 - Lt. Jason Proctor of the Police Academy Training Staff,
 - Sgt. Chris Warner and K-9 Ofc. Gunner; Ofc. Jaime Scruggs and K-9 Ofc. Turbo, of the K-9 Unit, and
 - Sgt. Kurt Knapp of the Aviation Unit.

The Grand Jury wishes to extend their thanks to the officers and staff of the Metro Police Training Academy for welcoming us and providing in-depth information about the many facets of training, instruction, and service to our community provided by the academy.

- Davidson County Detention Center, Juvenile Court, honorable Judge Sheila Calloway presiding. We thank Judge Calloway and the staff of the Juvenile Detention Center for the presentations, the educational materials, and for showing us facility; and for the wonderful lunch that was provided during our visit.

Cases

The Grand Jury received 711 cases or deliberation.

676 were returned as True Bills.

35 were returned as No True Bills.

Concerns

“The real crime is that we allow poverty - the poverty of spirit, ethics, knowledge, economics and religion” - Philip Schmidt, Grand Juror.

The Grand Jury notes the number of No True Bills returned for cases prosecuted for domestic violence. We feel the requirement under the law that stipulates when officers are called to an incident of domestic violence an arrest *must* be made puts an undue burden on the legal system to prosecute cases which may otherwise be resolved elseways between the parties. While the majority of calls made to Metro Police are for issues related to domestic violence, it is the feeling of some members of this Grand Jury that the evidence presented for many of the domestic violence cases returned for No True Bill did not rise to the level of a crime being committed. We recommend the State Legislature revisit the laws requiring there *must* be a prosecution for calls for domestic violence. We perceive the pendulum may have swung too far to mandate prosecution when circumstances could indicate other remedies may be more appropriate.

This Grand Jury has deliberated many cases where it was determined the issue of mental health was at the core of the case. We urge our community and the criminal justice system to take mental health more seriously. The stigmas around mental health are alive and well, and we believe them to be a detriment to our city and state. In cases before the Grand Jury this term, we have seen prejudice exhibited against those with mental health issues. We believe government needs to take action to mitigate harm to those individuals with mental illness, and also the individuals they may harm. Our educational system must address these issues if change is going to happen. Our children are very vulnerable, and their minds are very pliable and resilient. They need our protection, but also direction as they grow. We believe age appropriate curriculum, from preschool forward, should be developed with the expertise of psychiatrists, educators, our school systems, and our government so that mental health can be discussed openly, honestly and compassionately. We have observed Nashville is on the forefront of innovative methods to address many issues in our criminal court system. The Drug Court (DC4), Juvenile Court, and Recovery Court are excellent examples of how our city strives to not just warehouse the incarcerated, but provide them guidance, educational programming and constructive tools to effectively interact with our society in healthy and productive ways. We believe Nashville should endeavor to create a multifaceted educational system with the goal of addressing mental illness in our society. This curriculum should extend to government workers at all levels so they can interact appropriately and provide services where necessary. Police Officers, Teachers, Government Service providers, members of the Judicial system, and even our Legislators could benefit from increased awareness and knowledge about the struggles for those individuals dealing with mental health issues and those in the community who interact with those

individuals. We believe this could lead to a lower rate of incarceration, leading to fewer jails, prisons, juvenile detention centers, and other penal institutions. Our hope for our community is a future with fewer suicides, mass murders, drug overdoses, rapes, child molestations, domestic violence, and other crimes.

This Grand Jury is gravely concerned with the proliferation of violent offences perpetrated by felons with guns, and the use firearms in commission of crimes related to the sale and unlawful use of illicit drugs. This seems to happen disproportionately among the youth of our community. We encourage our government at all levels, and the community itself, to promote living at peace with one another and the non-violent resolution of disputes.

The apparent free-flow and use of opiates, narcotics, and other illegal substances is of utmost concern to this Grand Jury.

We urge increased education for all, but especially among the youth, to preempt drug use. And, we advocate the promotion of programs that provide the tools necessary to escape addiction for those who have become lost in it.

This Grand Jury is concerned with the availability of the reports from previous Grand Juries. Early in our term, the Grand Jury alerted the Court that the Final reports from the Spring and Summer Term Grand Juries (April – June 2017 & July – September 2017) were not available publicly on the Trial court's website (<http://trialcourts.nashville.gov/grand-jury-reports/>). It took weeks to receive printed copies of the reports after we requested them. These reports are to be readily available to the public. As of this writing, those reports are still not listed on the website. While we believe this to only be an oversight, and found no evidence of ill intent, we urge the Court and the Clerk's Office to ensure all reports are promptly and readily accessible to the citizenry.

There were members of the Grand Jury who did not receive their printed copies of the charge to the Grand Jury that was read to us the day we were sworn in. We urge the Court to ensure all members have copies available on their first day of service, or add it to the preliminary email.

Recommendations

We appreciate the professionalism and efficiency of Sgt. Richmond when presenting cases. We recommend others presenting cases, especially individual citizens, be assisted and/or joined by an experienced officer who has access to the case file. This would prevent presenters from not having (or missing, or forgetting) key information that should be available to the Grand Jury for their deliberations.

We concur with a previous Grand Jury (Spring Term, April - June 2017) there should be more Grand Jury Forepersons, and we recommend the Court develop a pool of 6-10 qualified individuals who are able to lend their experience and lead future Grand Juries as Foreperson on a rotating basis. Then any given foreperson would only need to serve once every couple of years. We believe a balance is necessary between the impartiality of new forepersons and the experience necessary to effectively lead the Grand Jury through the large number of cases presented each term.

We also agree with that same Grand Jury (Spring Term, April - June 2017), the need for members to consider the presumption of innocence and the constitutional rights of the accused when deliberating cases. We were shocked to learn we were the first Grand Jury to hear from the Public Defender during the educational portion of our term. We encourage future Grand Juries to invite someone from the office of the Public Defender to present as part of the educational experience at the beginning of their service. We share the concern of the Public Defender about the hardships suffered by many of the accused. We recommend the court study ways to reduce the length of time the accused are in custody before being indicted. We were dismayed to hear there are those who may be in jail for 3-6 months before being indicted. We believe this is too long and does not coincide with the rights afforded defendants by the sixth amendment to a speedy trial. We were gravely concerned to find the Public Defender's office began turning away cases beginning in 2014 and encourage the Court to rectify this issue as it smacks of not providing, those who cannot not afford legal representation, equal justice under the law. We also recommend working with the legislature to reform bail bonding in Tennessee. We recognize those who cannot secure a Public Defender, will receive a court appointed attorney, but we are also concerned about the lack of oversight for appointed lawyers. The only person who can remove a court appointed lawyer is the appointing judge. We feel the accused should have more say in their representation, even if they cannot afford their own lawyer.

The Grand Jury deliberated a case on October 17, 2017 where a corrections officer was assaulted by an inmate with his own bodily fluids (case 2017D - 2268). We learned there is no statute to charge the inmate with a felony for this act. Due to this limitation, an indictment for misdemeanor assault was issued when we felt a stronger charge would have been appropriate.

We recommend the legislature allow for the possibility of felonious assault on a corrections officer when an inmate commits such an egregious act. (Ref. § TCA 39-13-101 - Assault, b, 1, B).

We recommend the court, in conjunction with the offices of the District Attorney and the Public Defender, supply a more informative packet to the members of the Grand Jury at the beginning of their service. In an effort to streamline deliberations, we recommend the information should include information about the Grand Jury's authority to change (including reducing, or adding) charges to the indictments. We also recommend formal documentation be provided to members of the Grand Jury defining or exclusively outlining the two factors on which voting should be based:

1. If a crime has been committed.
2. If there is sufficient evidence of probable cause to indict.

We would like to see material provided documenting the process of a case through the criminal court system. We recommend a flow chart from arrest to trial, and information about the options available the the Grand Jury in the process.

We believe a presentation by at least one of the Citizens Academies would be appropriate for future Grand Juries. While we do not suggest attending one of the Citizens Academies needs to be a prerequisite for service on a grand jury, we do believe it would be valuable to encourage members to attend. And, we suggest members of the Grand Jury participate in Ride Alongs with patrol officers. Increased participation in these programs can help to keep members informed about the inner workings of law enforcement.

We recommend those who present educational information to the Grand Jury have their presentations up to date. We found some presentations contained figures more than 10 years old. We encourage those presenting to review their material to provide accurate and timely data when citing statistics in their educational materials.

We encourage those presenting to the Grand Jury maintain a sense of professionalism. The presentation from the Drug Task Force officer included some commentary that was not sensitive to the plight of the victims during one of the videos which showed a drug user that eventually passed away.

We greatly appreciate the opportunities allowed by the site visits during our term. However, we recommend future Grand Juries conduct their visits earlier in their term. During our site visits, we gained valuable insights which could have impacted our deliberations, and members were heard saying, "I wished I knew about that earlier." We believe, scheduling the visits sooner could have prevented this.

During the course of our term there were a number of issues that arose regarding access and parking for the members of the Grand Jury. Some members had their vehicles towed. A member of the grand jury had their car damaged when bricks fell off the building. It was difficult to obtain the bus passes that were offered. And, members had difficulty being able to get into the building due to their disabilities and the conditions of the street and curbs on Bank Street. As members of the Grand Jury, we are happy to serve at the pleasure of the Court, but we would recommend the Court become more proactive in removing barriers to access for those who serve. This would eliminate much of the frustration experienced by this Grand Jury.

We highly recommend the traffic officers who patrol Bank Street for parking violators be given license tag numbers of the Grand Jury members during their term, so they do not tow those legally parking there, or determine a more satisfactory solution for parking and access. At the least, ask the Legal Secretary for the Grand Jury division (currently Lori Hooberry) before towing cars parked on Bank street during our deliberations. This would greatly reduce the cost and inconveniences to the court, and the members of the Grand Jury, when their cars are towed. We also recommend cutting a ramp into the high curb on Bank Street for easier access to the building near the building entrance.

We recommend the Legal Secretary for the Grand Jury division be in charge of the bus passes. This person has regular contact with the members and could distribute them at the Court's direction.

This Grand Jury was privileged to tour the Metro Juvenile Court and the Davidson County Juvenile Detention Center. After meeting with Judge Calloway and her staff, we determined that the current facility is inadequate to the needs of the city and our community. Currently, the court and detention center occupy about 95,533 square feet including off-site facilities. Due to the additional magistrates, the expanded services, and the growth in population since the current building was constructed, we recommend the Metro Council address the need for a new building as soon as possible. The projected space required through the year 2035 is 286,869 square feet. We feel this is consistent with the projected need. We wholeheartedly endorse the recommendations provided by Judge Calloway which have already been presented to the Council.

Finally, we recommend Metro fund and expand Judge Seth Norman's Drug Court. We were very impressed with the benefits to our city, the individuals in the program, and the savings provided by this innovative and effective program. We encourage both Metro and the State of Tennessee to provide additional funding and resources to this program which is changing the lives of the participants for the better, thus changing our community for the better.

We were distressed to find there is such a long waiting list for participants. There is an extensive list of demonstrated benefits, as well as cost savings, to our society that is provided when

participants complete the program, and are able to escape the cycle of addiction and incarceration, and become productive citizens.

We were similarly distressed to find Metro provides *no operational funding* for this program. It costs approximately \$44 per day for participants of the Drug Court, versus \$75-80 per day for those regularly incarcerated. This does not even account for the savings over time when the recidivism rate. The rate for those who reoffend after completing the Drug Court program is between 25-30% versus those who complete their sentence in jail, or prison, who reoffend at around 70%. Per Judge Norman, the cost savings per participant is around \$35,000 per sentence. And, studies show, the cost savings per individual for our society could be as much as \$250,000 per individual, given the statistics showing participants who complete the program reoffend at a drastically lower rate.

We strongly advocate for expansion of the Drug Court program. We also urge Metro to create a women's only Drug Court in addition to the current program, as we believe it would create an even more effective environment for the participants than the current co-educational environment.

While we appreciate the greatest benefits of this program are only realized when the participants come to the realization they must decide to own the changes themselves for there to be lasting results, we believe the benefit to our population in Metro Nashville and the surrounding counties to be worth increased development of this and similar programs. And, due to the fact it actually costs less while serving their sentences, and over time, we strongly recommend funding the expansion of this program.

We champion Judge Norman and his staff in their efforts to affect real, positive change in our community, and applaud the results of his program over the last 20 years. We look forward to seeing the results of his legacy among our neighbors whose lives have been saved by this program.

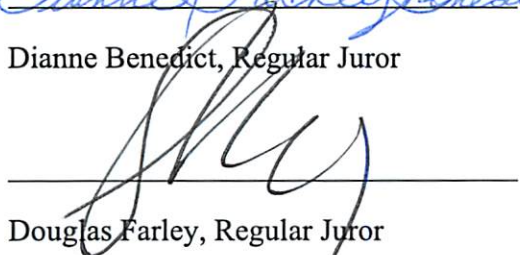
Again, we thank the Court for this tremendous opportunity.

Respectfully submitted the 15th day of December 2017,

Dianne Benedict, Regular Juror

Debra Eden, Regular Juror



Douglas Farley, Regular Juror



David Graham, Regular Juror




Tatiana Kishko, Regular Juror



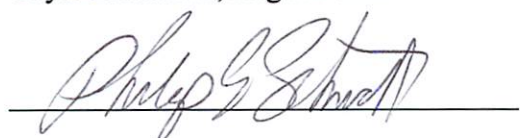
Kandise Lillard, Regular Juror



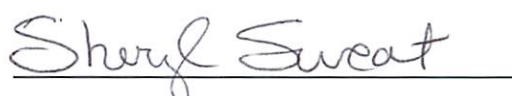
Gayle Lindaman, Regular Juror



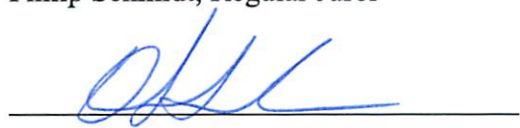
Cordrea Nance, Regular Juror



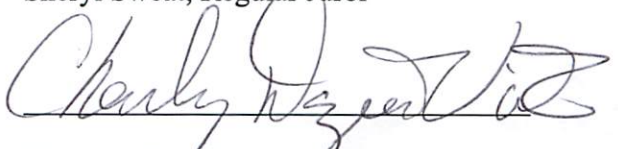
Philip Schmidt, Regular Juror



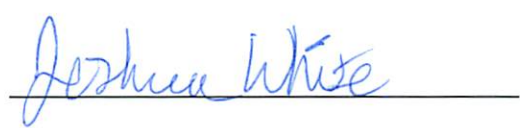
Sheryl Sweet, Regular Juror



David Turner, Regular Juror



Charley Vick, Regular Juror



Joshua White, Regular Juror



Steve Davis, Grand Jury Foreman