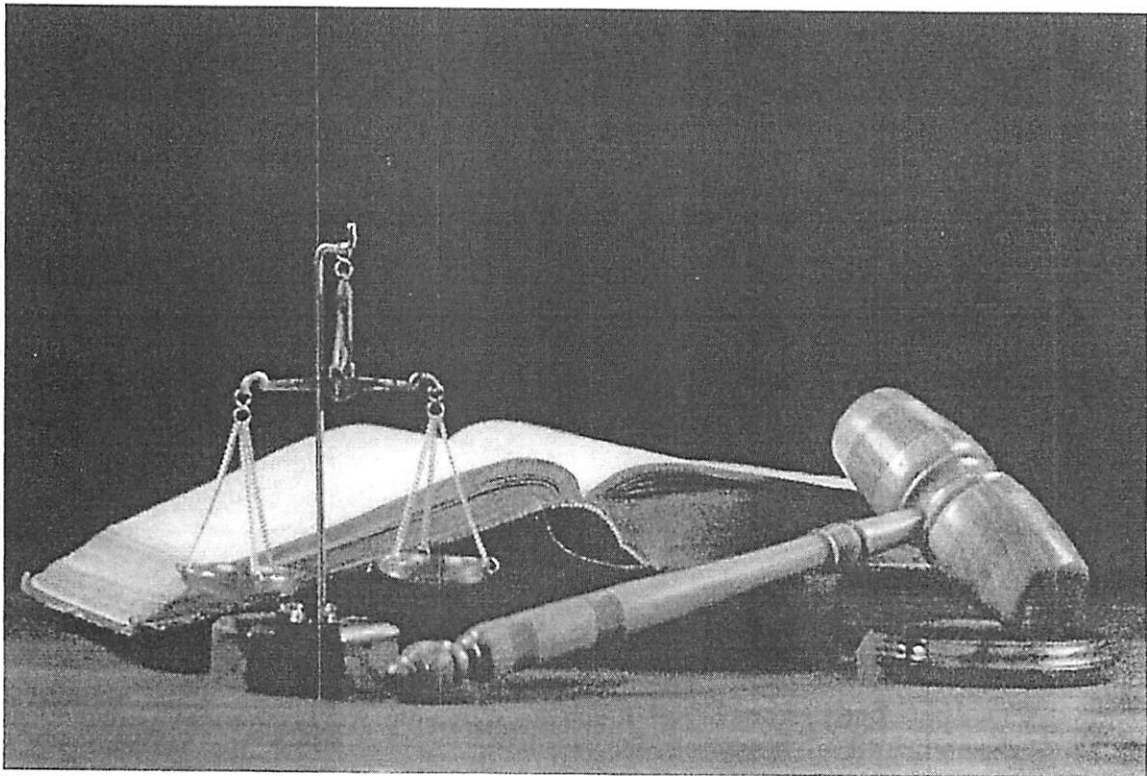


# **Grand Jury Final Report**

The Honorable Judge Monte D. Watkins

Criminal Court, Division V

Davidson County, Tennessee



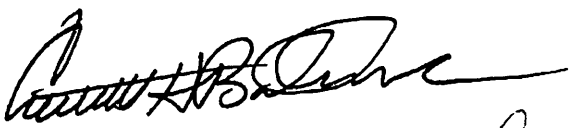

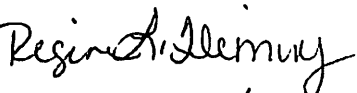



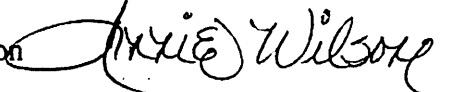




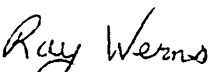

October – December 2018

Arnett Bodenhamer, Foreperson

The members of the Metro Nashville, Davidson County Grand Jury for the fall term of October – December of 2018, as commissioned by the Honorable Judge Monte D. Watkins, submit our Final Report as testament of our findings during this period.

## **Grand Jury Members**

### **Regular Jurors:**

Arnett Bodenhamer (Foreperson)	
Amelia Brogan	
Regina Fleming	
Garry Hawkins	
Deborah Moore	
Samuel Schultz	
Annie Wilson	
Denise Darden	
Penny Gabbert	
Latoya Jackson	
Carlton Newman	
Ray Werns	
Mary Wilson	

### **Alternate Jurors:**

Tyler Crawford	McKenzie Green
Hector Ramirez	Leila Vartanian
Kristine Sams	Cynia Young

## **Introduction**

On September 24, 2018, the Davidson County Grand Jury for the October – December 2018 term was sworn in by the Honorable Judge Monte D. Watkins at the Justice A. A. Birch Building in Nashville, TN.

Over the course of our three-month tenure, we were exposed to the workings of the Davidson County criminal justice system and the services it provides to defendants, victims, and the remaining citizens of this county. As Grand Jurors we had the responsibility of hearing charges from the state and deciding if there was enough probable cause to bring the case to trial. We took our duties very seriously knowing the impact our decisions would have on not only the parties directly involved but also Metro Nashville as a whole. We hope that this final report will offer an adequate look at our time on the Grand Jury and our recommendations will be sincerely considered.

## **Presentations**

At the start of our term, we had the pleasure of meeting representatives from various divisions of the Metro Nashville government and its support staff. These presentations equipped us with the necessary knowledge to carry out our responsibilities and reminded us why we are a crucial part of the criminal justice system. We heard from the following:

- **Glenn R. Funk – District Attorney General (Oct. 8<sup>th</sup>)**

Mr. Funk introduced himself to us by providing an outline of the duties of the District Attorney General and his background in criminal justice. Of particular interest was his vision for the

Davidson County criminal justice system. Mr. Funk is unique in the sense that he has experienced the criminal justice system from multiple angles. He has served as a special prosecutor, an assistant district attorney, a public defender, and has been an attorney in private practice. These are all valuable experiences for a District Attorney General to have because he knows the impact the system and its process has on all parties involved.

We found that Mr. Funk has a strong belief in justice for all and is committed to giving victims the justice that they deserve. However, this does not just involve criminal prosecution. Mr. Funk has done a great job of overseeing a system here in Davidson County that is determined to give victims of crime the resources they need to help them recover, as well as offer those who have been convicted the means to rehabilitate. The criminal justice system in Davidson County is by no means perfect, but District Attorney General Glenn Funk presented us with a view of his mission that looks to improve things for everyone.

- **Rodney Faulk – Assistant District Attorney General (Oct. 8<sup>th</sup>)**

Mr. Faulk was an important resource for us and played a key role in making our time on the grand jury a success. He was able to answer any legal questions we had and often gave insight into why certain charges did or did not apply to a case. Mr. Faulk was a valuable part of this process.

- **Leanna Dugan – RN, “Our Kids” (Oct. 8<sup>th</sup>)**

Ms. Dugan talked to us about Our Kids, a nonprofit organization that provides expert medical evaluations and crisis counseling to children and families affected by sexual abuse. Our Kids also conducts research and raises community awareness about child sexual abuse. National statistics

reveal that about one in every four girls and one in every seven boys will experience some form of child sexual abuse by age eighteen. Sixty-five percent of the 900 children Our Kids examines each year are seven years of age or younger.

Ms. Dugan provided us with information on how the program works and the ways they assist the District Attorney's office and the police department in cases involving victims of child sexual abuse. She gave us insight into the importance of forensic interviews and stressed that just because there is no physical evidence, it does not mean someone is not a victim of sexual abuse. Ms. Dugan and everyone else at Our Kids are providing an invaluable resource to the children and families of Metro Nashville, Davidson County in ensuring they get the best care and resources in their time of need.

- **Sgt. Gene Donegan – MNPD Drug Task Force (Oct. 9<sup>th</sup>)**

Sgt. Donegan provided us with statistics, information, and firsthand accounts on how narcotics are being used and abused in Davidson County and across the country. His presentation included samples of narcotics for our viewing in order to familiarize ourselves with not only the drugs themselves, but also the common packaging and measurements used in the transport and exchange of these drugs. This was an essential education given the number of drug-related charges presented to us during our tenure. The devastation opioids and their synthetic counterparts have unleashed on our communities has been well documented. Sgt. Donegan confirmed the challenge his unit and the rest of the Metro Nashville Police Department (MNPD) face trying to combat the influx of illegal drugs in our county.

- **Officer David Abbott – MNPD D.U.I. Unit (Oct. 12<sup>th</sup>)**

Officer Abbott joined us to talk about the role of the D.U.I. Unit within the Metro Nashville Police Department. This unit is responsible for identifying possible impaired drivers and getting them off the road. There were 73 fatal crashes in Davidson County in 2017. Of those crashes, 42 involved someone who was impaired. We saw numerous D.U.I. charges over the course of our term, including many involving habitual offenders. With the rapid expansion of the area and Nashville's vibrant nightlife, we need focus resources on this growing problem. Impaired drivers cost society \$44 billion a year, and it is a crime that is 100% preventable.

- **Detectives Nate Ellsworth, Jason Door, Chris Williams – MNPD Domestic Violence Unit (Oct. 15<sup>th</sup>)**

The presentation given by detectives Ellsworth, Door, and Williams was an eye-opening experience regarding the severity and growth of domestic violence. In 2017 Tennessee was fourth in the country in the number of domestic violence cases reported. In 2016 there were 25,806 reported cases of domestic violence in Davidson County, and in 2017 that number fell slightly to 25,383. However, domestic violence homicides in Davidson County increased over that same timeframe. Domestic violence was a frequent charge seen during our term on the grand jury and as a community, we need to do more to combat this problem. Domestic violence can be a "learned behavior" and the cycle of violence is something that needs to be addressed further.

While the numbers may be alarming, Metro Nashville and Davidson County take this issue very seriously. Over the past decade, judges in Davidson County have been training in this area and currently, the county has four General Sessions Court judges dealing specifically with domestic violence cases. MNPD officers are also proactive in offering victims shelter from their abusers and

assisting in the process of obtaining orders of protection. Although Davidson County is opening a new family safety center to consolidate the county's domestic violence services and make things easier for victims, we can always do better.

- **Judge Melissa Blackburn – Mental Health, Veterans Court (Oct. 22<sup>nd</sup>)**

In January 2001, Davidson County opened the fifth Mental Health Court in the country. Judge Blackburn spoke to us about the unique services this court provides and the ways she and her staff are working to assist those with mental health conditions. Mental Health Court is designed to assess those who have been diverted to the court, and afford them with a comprehensive and holistic treatment program that addresses the multiple issues facing the offender. Services provided include mental health treatment, alcohol and drug rehabilitation, housing, and educational counseling. This court is better equipped to integrate those suffering from mental health disorders back into the community than the traditional court system and we believe this is an invaluable assistance offered by the Davidson County criminal justice system.

Judge Blackburn also spoke to us about the Davidson County Veterans Treatment Court. Many veterans who return from service face specific obstacles including mental health challenges. Davidson County believes veterans deserve a comprehensive and structured program that can better assist them than traditional court. And similarly to Mental Health Court, Davidson County Veterans Treatment Court offers those invaluable programs.

- **Chief Steve Anderson – MNPd Chief of Police (Oct. 29<sup>th</sup>)**

Chief Anderson talked to us about the mission, structure, and performance of the Metro Nashville Police Department and allowed us to ask any questions we had about the department and the role it plays in Davidson County. He provided us with extensive and up-to-date crime rate statistics

and outlined the strategic, tactical, and administrative response MNPd is taking to reduce those crimes.

One thing that stood out to us was MNPd's conscientious effort toward community outreach. This stems from the department's structure of having specific area-based precincts and delegating certain responsibilities to the commanders. Commanders can then focus their attention on the distinct area under their supervision, and better serve the community. Each precinct also employs a community coordinator focusing on reaching out and strengthening the relationship between the public and the officers who serve them.

## **Site Visits**

During our term, we had the opportunity to visit a number of sites that comprise the Davidson County criminal justice system. Our visits gave us an in-depth look at how these institutions individually run and then come together to form a system designed to serve and support the residents of Davidson County. We visited the following locations:

- **Juvenile Court of Metro Nashville, Davidson County (Oct. 12<sup>th</sup>)**

Judge Sheila Calloway, Court Magistrates, and the rest of the staff at the Juvenile Court of Metro Nashville and Davidson County welcomed us to their facility and offered us a comprehensive look at the work they do to assist the children and families of Davidson County. As explained to us, the Court's mission is "to provide for the care, protection, and wholesome moral, mental, and physical development of the children coming within its provisions." The court's approach of using evidence-based programs and methods like restorative justice aim to lower the recidivism rate among Davidson County's youth.



Our visit to the Metro Nashville and Davidson County Juvenile Court was a fulfilling experience that opened our eyes to the positive impact Judge Calloway and her staff have on the families of Davidson County. She also informed us of numerous opportunities to get involved with the Juvenile Court process including the very important Foster Care Review Board Program.

- **Tennessee Bureau of Investigation (Oct. 19<sup>th</sup>)**

Our trip to the Tennessee Bureau of Investigation (TBI) gave us a detailed look into the independent agency responsible for assisting local law enforcement in the investigation of serious crimes. The TBI is also responsible for conducting special investigations into crimes including matters of public corruption, organized crime, fraud, and domestic terrorism.

The tour we were given provided us with a look at the history of the organization, the highly-publicized murder that led to its creation, and the process it has undergone to evolve into the bureau it is today. We were shown the various departments that make up the TBI and how each serves the people of Tennessee.

- **Forensic Medical Examiner (Oct. 19<sup>th</sup>)**

Forensic Medical Examiner provides autopsy services, death investigations, and expert forensic testimony to Metro Nashville and Davidson County agencies, as well as counties throughout the state of Tennessee. Our tour of their facility was given by Candice Sexton, Director of Investigations. She informed us of the services they provide and the processes and procedures they employ, and she provided a tour of the area utilized for preparing and conducting autopsies.

- **Metro Nashville Police Training Academy (Oct. 23<sup>rd</sup>)**

Our visit to the Metro Nashville Police Academy was led by Lieutenant Grant Carroll. He gave us a detailed presentation on the process of becoming a Metro Nashville police officer, the exhaustive program recruits go through, and the essential training one needs before they can be trusted with serving and protecting the people of Davidson County. The Metro Nashville Police Department has operated a Gold Star training facility since 2017. Gold Star basic training for recruits requires twice the number of hours mandated by the P.O.S.T.<sup>1</sup> commission and is internationally recognized. The Police Training Academy is approximately twenty-two weeks and is designed to challenge trainees both mentally and physically in several areas.

Lt. Carroll was very welcoming and did not shy away from any questions we had. For example, MNPD's approach towards their officers' use of force came up several times as this has been a recent point of contention around the country. Lt. Carroll stressed the training Metro police officers receive in assessing and diffusing situations, the steps they take to limit the harm caused by the use of force, and their belief in protecting all, including marginalized groups and those who have been arrested or do not support the police. Metro Nashville officers are trained to stop the threat, not kill when using force.

While at the Police Training Academy we also visited the K-9 Unit training center. There we were told of the procedures required when selecting potential police dogs, and also shown the extensive training Metro K-9 units go through before they are ready to serve the people of Davidson County. The MNPD currently has 16 K-9 teams. Each unit goes through a fourteen-week patrol dog certification course that meets the standards of the United States Police Canine Association.

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<sup>1</sup> Peace Officer Standards & Training

After being certified, officers and their K-9 partners go through continuous courses to reinforce the training they have already received.

We were also given a tour of the Metro Nashville Police Department Aviation Unit where we were shown the helicopters currently used by the department. These aircraft are used to support the rest of the department. The MNPd Aviation Unit consists of a supervising pilot, sworn officer pilots, and civilian pilots. To maintain the aviation equipment, the department employs a full-time staff of mechanics for repairs and inspections. The MNPd Aviation unit conducts regular patrol flights and responds to over two thousand calls for service a year ranging from fleeing suspects and vehicle pursuits, to surveillance and vice operations.

- **Riverbend Maximum Security Institution (Oct. 26<sup>th</sup>)**

The Riverbend Maximum Security Institution (RMSI) opened in 1989 and has the capacity to house 748 offenders, including the state's male death row inmates. We took an informative tour of RMSI and its many buildings. While there we learned of the various programs they offer ranging from residential construction, millwork, and masonry, to computer information systems and advanced education. Warden Tony Mays requires every inmate to work towards their GED if they do not already have one or its equivalent. These programs are crucial to the rehabilitation process and help inmates better prepare for life upon their release.

While at RMSI, we were also given the opportunity to interact with non-violent inmates. We learned about how they cope with everyday life and how they are trying to better themselves by making the most of their time at RMSI. Our visit was an important reminder that as a community we need to support the rehabilitation process so that offenders can become productive members of society after they have served their time.

- **Drug Court of Metro Nashville and Davidson County (Nov. 2<sup>nd</sup>)**

Approximately 80% of all criminal cases in Davidson County involve either drugs or alcohol. Research indicates that at least 60% of the people charged in those cases have a chemical dependency problem. In an attempt to combat and treat the problem of chemical dependency, Judge Seth Norman looked to establish a “drug court” in Davidson County. In 1995 the foundation was set, and the Davidson County Drug Court has been assisting offenders ever since. What started as an outpatient program has now evolved into a comprehensive inpatient program capable of treating over 100 long-term offenders suffering from chemical dependency.

Our tour of the Davidson County Drug Court Residential Program (DC4)<sup>2</sup> was led by Director Janet Hobson with help from current residents, Catrina and Aaron. This trip was an insightful experience that affirmed there are people addressing the drug problem currently impacting our community. Residents Catrina and Aaron gave us a firsthand testimony on the quality of treatment they are receiving, and it appeared they were very grateful for the opportunity DC4 provides.

While there, we were also given some encouraging information on the success of the program. Since 1997, over 600 offenders have successfully completed the program and the recidivism rate of DC4 is only 25%. The program has diverted roughly 1500 people from the current criminal justice process and provides the community with over 50,000 annual hours of community service. However, what is really telling is that DC4 has been able to help hundreds of people recover from chemical dependency at a cost of \$48.00 per day, as opposed to the \$63.41 per day it costs to house someone in prison.

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<sup>2</sup> DC4 stands for Davidson County Drug Court Developing Character During Confinement.

- **COMPare STATistics (Nov. 9<sup>th</sup>)**

Every Friday, Metro Nashville Chief of Police Steve Anderson, precinct commanders, and support staff assemble to present weekly crime statistics. Each commander focuses on their precinct's statistics, where things *have* improved, and *can* improve. COMPare STATistics (CompStat) is a way to map and analyze crime, identify spikes, and provide information on where to best target enforcement in Davidson County. This was an interesting meeting to attend because it gave us an inside look into the different approaches MNPd takes to reduce crime in Davidson County.

- **Metro Nashville Police Department Crime Lab (Nov. 30<sup>th</sup>)**

Due to a growing population and the need for quicker forensic science work, MNPd opened their own crime lab in 2014. This state-of-the-art facility assists MNPd in five primary disciplines: DNA/Serology, Drug Identification, Latent Prints, Firearms and Tool Marks, and Toxicology. The lab adheres to Best Practices and a Code of Conduct which meets or exceeds the compliance requirements set by the American Society of Crime Laboratory Directors/Laboratory Accreditation Board (ASCLD/LAB). The MNPd Crime Lab is an accredited crime lab which allows them to work on evidence from active criminal cases.

Crime Lab Director Ann Talbot guided our tour where we learned about Forensic Science and the technology and equipment used to analyze physical crime scene evidence. She emphasized the strict protocols in place to safeguard the integrity of the lab, as well as maintain its processes and procedures in light of the immense amount of detail that goes into collecting and analyzing crime scene evidence. Ms. Talbot also assured us of the lab's proper handling of evidence to ensure the validity of the chain of custody and the legitimacy of the lab's results.

The lab is comprised of various specialized units. The Crime Lab Evidence Receiving Unit receives evidence daily from MNPd officers. This evidence is temporarily held in one of two ERU vaults until it is distributed to the appropriate unit. The Latent Prints Unit searches all prints against the national Automated Fingerprint Identification System (AFIS) database. The Forensic Biology/DNA Unit uses different technology and methods to detect and interpret DNA from biological evidence. The Crime Lab Drug Identification Unit analyzes controlled substances and their chemical makeup. The Firearms and Tool Marks Identification Unit uses comparative forensic analysis on firearms and bullet casings used in crimes and the Toxicology Unit analyzes blood samples for the presence of alcohol and drugs for cases like DUI.

## **Cases**

During the 2018 fall term, the Grand Jury, in accordance with the Tennessee Rules of Criminal Procedures, heard and deliberated on a total of 601 cases. Of these cases, 566 were True Bill and 35 were No True Bill.

## **Recognitions**

The Grand Jury of the 2018 fall term would like to thank all the speakers, presenters, officers, staff and the participants at every stage of our term as Grand Jurors.

- **Lori Hooberry** – Legal secretary to the Grand Jury Division of the DA's office.

Ms. Hooberry did a phenomenal job keeping the Grand Jury and guests comfortable each day. She had the indictments and other documents well organized and prepared before the start of our day.

We appreciate the extraordinary job Ms. Hooberry did during our term.

- **Sgt. Sean Richmond** – Metro police officer assigned to the DA's office.

Sgt. Richmond presented most of the cases throughout our term. He has an enthusiastic approach combined with effective communication skills. Sgt. Richmond presented the cases very clearly and professionally and proved to be an invaluable asset throughout our term.

- **Officer William Fox** – Metro police officer assigned to the DA's office.

Officer Fox filled in during Sgt. Sean Richmond's absence and presented the cases just as clearly, professionally and efficiently as Sgt. Sean Richmond.

- **Rodney Faulk** - Assistant District Attorney General.

Mr. Faulk assisted us with any legal questions we had. He provided clarification on why certain charges would apply to a case over others. We would not have had a successful term without his assistance.

- **Arnett Bodenhamer** – We would like to extend a special thanks to Mr. Bodenhamer for providing strong leadership throughout our term. Mr. Bodenhamer made it known that each Grand Juror has an equal voice in determining whether or not an indictment should be returned. He encouraged us to ask questions related to each case being presented. He also encouraged every Grand Juror to speak during deliberation, regardless of his or her views, prior to voting. It was an honor and pleasure for us to serve with Mr. Bodenhamer as our foreperson.

## **Thoughts about Our Experiences Serving as Grand Jurors**

Our Grand Jury term has given us a greater understanding of the dedication and commitment required of every individual within each department of the justice system in order to work together to serve our community. As Grand Jury members, we were exposed to the challenges our judicial system addresses each day to make Davidson County safe for all. With the knowledge and experiences we have obtained,

we can now work to help our neighborhoods and communities become a safer place and see Metro Nashville and Davidson County flourish.

## **Recommendations**

- **Juvenile Court**

In September of 2018, Metro police reported more than 1,472 juvenile arrests. At the same time, WKRN reported that information obtained from Nashville Juvenile Court shows zip code 37208 has the highest juvenile incarceration rate in the nation. The report also stated that the juvenile offenders committing serious crimes in Nashville are getting younger and younger.

Studies show that youth disconnection has a negative impact on a community. The lower the rate of youth disconnection, as measured by the Opportunity Index, the higher a community's Opportunity Score. When our youth do well, our communities do well. Research shows that young adults involved in the juvenile justice system are disproportionately low income and minority. Also, they tend to be diagnosed with learning disabilities, and many have experienced abuse and other forms of hardship. Our communities and businesses all pay the price for youth disconnection in wasted talent, diminished communities, lost earnings and tax revenues, and increased social services.

The Metropolitan Davidson County Juvenile Court division provides safety and support services to children and families. Growing up is in and of itself a challenge, but finding a productive path as a juvenile can be difficult or almost impossible without appropriate guidance and the opportunity to follow a positive direction. We, the grand jurors, would like to see our local



government provide the funding and resources needed to support our youth through those crossroads.

When the Davidson County Detention Center facility opened in 1994 it served a Nashville population of 503,429. Today, the same Davidson County Detention Center facility is serving a population of 659,042 and growing. The growing population and services provided to our youth exceed the current facility size. In our opinion, Davidson County Detention Center requires a new facility that is not only larger, but also designed to accommodate the supported services.

- **Drug Court**

Our tour of the drug court was informative and inspiring. Our subsequent discussions included several observations and suggestions regarding better use of the drug court's resources. For example, we believe the drug court should utilize their extra property to build a larger facility. Additionally, the growth and cultivation of the gardens could afford a stream of revenue for the court and the prisons. Non-violent offenders could assist the community with insights into addiction by appearing and speaking to community groups, schools, and civic organizations.

- **TBI**

Although we found our visit to the TBI laboratory very informative, the information was repeated when we visited the MNPd Crime Lab. We did not feel that the rest of the tour provided us with information or insight into the actual workings of the bureau, and we do not recommend that a tour such as the one we experienced be included for future grand juries.

- **Sexual Assault Evidence**

Officers and detectives trained in the handling of sexual assault cases met with the grand jury to provide information helpful in the consideration of those cases. Additionally, the grand jury visited the TBI laboratory and the Metropolitan Police Department's Crime Laboratory where department personnel advised the jury as to the practices and procedures conducted by their employees, as well as the challenges they face in carrying out their duties under the law. Of particular concern to the jury is the fact that there exists a significant backlog of unprocessed rape kits. Our observations indicated that this situation has a chilling impact on the adjudication of justice, particularly in those cases where a statute of limitations is in effect.

The jury recommends adding a lab, or at least additional resources in the existing labs, dedicated specifically to clearing the backlog of unprocessed rape kits. Addressing this backlog as a priority would serve the victims' desire for justice by providing essential evidence to assist law enforcement in the identification, apprehension, and arrest of perpetrators, particularly repeat offenders, as well as furnishing prosecutors with the evidence necessary to secure convictions.

- **Legislation**

During our term, the grand jury was presented with several cases wherein minor children, in the custody and control of their parents or guardians, were present during the commission of one or more felonies. In most cases, the facts indicated that the child or children were knowingly and intentionally placed in harm's way by their custodian.

While considering these cases, the jury inquired as to possible additional charges or enhancements available due to the presence of the minor child(ren). Time and again we were advised that either

there were no such additional charges available, or the enhancements did not exist or were severely wanting when considering the state's interest in protecting its children.

The grand jury stands in a unique position to experience and consider matters of compelling interest to the state. After all, the state's interests are those of the people, and the grand jury is comprised of citizens acting to serve those interests. When a child's welfare is in danger, the state has a compelling interest to protect the child. The state acts to ensure the safety of its children in many ways, and intervenes when necessary to do so. This includes instances involving failure or omission on the part of a parent or guardian to exercise responsibility for the care and safety of minor children. Children cannot care for themselves, yet they have rights as citizens and human beings to be safe in their environment. This is the state's compelling interest and, therefore, a compelling interest of the grand jury in the performance of its duties.

To that end, the grand jury requests the state legislature take the necessary steps to review, consider, and revise criminal statutes with an eye towards providing stricter and more stringent punitive consequences to those placing minor children in danger in the performance of a felony. It is our belief that the state's interest in protecting its minor citizens would be best served by this comprehensive approach in the revision of criminal statutes.

- **Jury Reimbursements/Compensation**

While we understand that serving our community as Grand Jurors is one of our civic duties, we feel ten dollars per day does not adequately cover the cost of fuel and other expenses that occur. Some people travel forty miles round trip each day we serve. The IRS currently has the mileage rate for business travel at 54.5 cents per mile. If someone must travel forty miles roundtrip that would come out to \$21.80. Between the cost of fuel and maintenance, we feel that twenty dollars per day would be better suited for future Grand Jurors.

- **Alternate Grand Juror Participation**

Regular Grand Jurors were exposed to valuable knowledge from the speakers, presenters, and site visits. We suggest the alternate Grand Jurors have these same opportunities, so they are better prepared when called upon.