

Grand Jury Final Report

The Honorable Judge Monte D. Watkins

Criminal Court, Division V

Davidson County, Tennessee

July – September 2020

Robert Davis, Foreperson



We, the members of the summer term of the Grand Jury of Davidson County, submit this report in summary of our service and experience.

We were charged by Judge Monte Watkins to "fearlessly investigate any and all forms of violations of the criminal laws of our state" from July-September 2020. It was a charge we took seriously and performed to the best of our abilities.

We first reported for duty July 13, 2020, and ended our term Sept. 30, 2020. At our first meeting with Judge Monte Watkins, the judge advised the jurors that someone in the Davidson County District Attorney's Office had tested positive for COVID-19 and the office would be quarantined for 14 days. We reconvened July 29, 2020, when Judge Watkins charged 14 jurors. An additional two alternate jurors were charged at a later date to ensure we always had a quorum.

As Grand Jurors, we had the responsibility of determining probable cause in charges by the State of Tennessee that are decided by the District Attorney's Office. We took our responsibilities seriously knowing the impact our decisions would have on not only the defendants, but the Metro Nashville community as a whole.

We have hope this final report will offer an adequate look at our time on the Grand Jury and any suggestions we have will be seriously considered.

During the term, the Grand Jury, in accordance with the Tennessee Rules of Criminal Procedure, heard and deliberated on 580 cases with 572 True Bills and 8 No True Bills.

Regular Jurors

Robert E. Davis, Foreperson
Haley White, Secretary
Tarcila M. Fox, Assistant Secretary
Christopher Ogle, Sergeant at Arms
Regina L. Fleming
Penny L. Gabbert
Wayne Jacks
Elena L. Knaffl
Fetima Laster
Betty Matlock
Ray F. Werns
Michelle Willard
Annie E. Wilson

Alternate Jurors

Deborah J. Moore
Peggy Pistol

Megan B. Street
Mary L. Wilson

Grand Jury service during the COVID-19 Pandemic

On March 13, 2020, Chief Justice Jeff Bivins declared a state of emergency for the judicial branch, and the Tennessee Supreme Court issued an Order Suspending In-Person Court Proceedings until March 31. The order was later extended further in order to help curb the spread of the virus. The order also disrupted the normal criminal court processes in Davidson County. The criminal courts were unable to issue jury summons and, therefore, empanel a group of volunteers for the Grand Jury, as is the usual custom. Instead, members of previous juries were solicited to volunteer to serve a shortened term in August and September. While the state of emergency continued through the summer, Davidson County Courts extended the suspension of in-person trials and, therefore, asked previous jury members to volunteer for the July-September term.

To conform with the "Safer at Home" guidelines, our temperatures were checked daily before we allowed to enter the deliberation room. We were also required to wear masks, as were all the witnesses. We observed social distancing and were seated approximately six feet from each other.

As in most conference rooms, the acoustics can be challenging. The post-COVID-19 layout magnifies the problem of hearing the presenters and at times each other. We, the Grand Jury, suggest an audio solution to address the acoustics of the Grand Jury room.

To accommodate social distancing guidelines, we suggest witnesses enter through the emergency exit. This will give them a direct line to the desk from which they are required to present. It will also keep them from having to walk across the front of the room, which would ensure the six feet distancing guidelines.

The room set up, before COVID-19, was in a U-shape. Because of social distancing requirements, we were all facing forward. Compounded with the required face masks, it made, at times, to hear and see our fellow jurors.

Another option would be to seat the jurors, so we can see each other, perhaps by using a socially distanced, U-shaped arrangement. For example, return to a modified version of the previous arrangement with the desks around the outer walls of the room. Instead of sitting the foreperson with the jurors, they could remain at the front of the room with the Secretary and the witnesses facing the jury.

Site Visits & Guests

Because of the extenuating circumstances, we did not hear the usual presentations from the Attorney General, Drug Task Force, DUI Unit, Domestic Violence Unit, Our Kids, and Police Chief. We also did not take any field trips to inspect sites, like Davidson County Drug Court,

Metro Nashville Police Department Training Academy, the new MNPB headquarters and Office of Family Services, Davidson County Male Correctional Development Center and Maximum Correctional Center, and the weekly CompStat meeting.

We did have the pleasure of meeting several representatives of the District Attorney's Office who during the term aided us in explaining the finer points of the Tennessee Code Annotated. They equipped us with the knowledge needed to carry out our responsibilities as well as remind us why we are a crucial part of the criminal justice system.

Michaela Mathew, Team Leader & Assistant District Attorney (ADA), Team Leader and Assistant District Attorney, spoke about Tennessee's criminal justice system. During the course of the term, ADA Mathew, Michel Claire Bottoms and Rodney Faulk were helpful in assisting us with the knowledge about the legal system and state laws as they relate to the cases facing the Grand Jury. They were especially helpful when they would directly cite state law and explain how it could apply to the case at hand.

Volume of Cases

Hundreds of cases are brought before the Grand Jury in a session. We as a group heard between 35 and 50 cases per day within a four-hour session. It is a striking amount of information to take in over such a short period of time, especially when the facts of some cases are traumatic. As experienced jurors, we were more able to process the cases, ask informed and incisive questions, and deliberate respectfully. However, the push to hear a staggering amount of cases within one voting session is tiring. We would like to commend our fellow jurors for making sure that most objections and questions were relevant to the cases at hand and coming to fair decisions in each case.

We would also like to suggest that, when there are multiple defendants the separate charges are listed for each defendant and that the charge count is included. This will help in determining if probable cause is present for each defendant.

Although the legal department provided an invaluable resource for the Grand Jury in making our time on the grand jury a success, the Grand Jury recommends future jurors be given more in-depth legal training dedicated to legal topics that support our time on the Grand Jury.

Concerns from cases

Mental Health

In January 2001, Davidson County opened the fifth Mental Health Court in the country. 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. The Grand Jury would like to see the Mental Health

program integrated in other areas of our justice process, so the people suffering from mental health disorders can gain access to a comprehensive and structured program leading a path back into the community.

Foreperson

The Foreperson is the most important role played in the proper function of a Grand Jury. The Foreperson is responsible for keeping order and ensuring the meting out of justice in a fair and balanced way. Several members of our Grand Jury would like the opportunity to serve in such a capacity. We believe our previous experience would be invaluable to the process.

Additionally, we find the lack of gender parity in the selection of forepersons concerning. Only a single foreperson has been female since 2015, according to previously filed Grand Jury Reports.

Direct Presentments

According to state law (TCA 40-12-104), individuals have the right to apply directly to the Grand Jury to have a case heard. It happens so infrequently that it was difficult at first to ascertain exactly what the procedure was. After discussing with the District Attorney's Office how to best observe the law, we heard two such cases.

The state law requires the individual petitioning to select an initial panel to review the case. In today's connected world, it is entirely too easy to find a person's contact information. For safety purposes, we suggest it would better protect those who are serving to select the initial panel at random using numbers.

The Presenters

Due to our experience, we believe the role of witnesses and the police liaison may be inherently biased because they are typically police officers. We recommend future police liaisons and witnesses be more aware of how their biases and opinions impact the way they present the cases and even how they choose to summarize them. In several cases, we experienced testimony from presenters to who expressed denigrating opinions against victims of domestic abuse, which is particularly concerning.

Following the Direct Presentment, the Grand Jury questioned the initial presentation of the case and our concerns about bias. In the following session, we appreciated the willingness of the liaison to accept our constructive criticism professionally and adjust expression of personal opinion.

Public Awareness

It came to our attention that the community could use increased awareness of juvenile curfew times and access to "Safe Exchange Zones" for private gun sales.

We were presented with a case where probable cause hinged on young adults, who appeared as if they could have been juveniles. These defendants were then stopped for violating Metro Nashville's curfew. During our discussions, we discovered that curfew changes depending on the time of year. In fact, an internet search of "Metro Nashville Curfew" returned at least three different answers. While not disagreeing with the concept of curfew it is difficult for one to observe curfew without a clear and precise definition.

We heard several cases of individuals who were robbed during the private sale of firearms. Selling a gun to a stranger is inherently dangerous. These exchanges should be done in a "Safe Exchange Zone," which can be found at all Metro precincts of which the public should be made aware.

Racial Disparity In Traffic Stops

During our term, we heard several cases where the defendants were apprehended for non-moving violations, such as a broken taillight, obscured license plate or window tint violation. After a 2016 report from Gideon's Army that found racial disparities in traffic stops, the Nashville Mayor's Office vowed to reevaluate the policies around traffic stops and their effectiveness as a crime prevention tool.

Two separate studies found racial disparities in traffic stops conducted by MNP. The Gideon's Army report found that although only 27 percent of Nashville's driving population is Black, they made up 39.9 percent of traffic stops from 2011-2015. A second study from the NYU School of Law, which can be found at policingproject.org/nashville, found Black drivers have a per capita stop rate 44 percent higher than for white drivers in Nashville.

Specifically, MNP made approximately 433 stops for every 1,000 white residents of driving age in 2016. Over the same period, it made 623 stops for every 1,000 black residents of driving age. Over the study period, the per capita stop rate for black drivers was 68 percent higher for non-moving violations—as compared to 24 percent for moving violations. This report found non-moving traffic stops only result in arrest or the discovery of contraband in only 2 percent of cases.

Based on the NYU report, MNP reduced the number of traffic stops from 2012-2017 and effectively, the crime rate remained the same. Since then, the number of stops has gone down significantly from 105,616 in 2017 to 39,073 in 2019. The drop came after officers were encouraged (and in some cases required) to leave their cars and interact with the public. By building relationships and establishing trust, MNP can better protect and serve the community, which is a better crime reduction tool than a traffic stop.

For these reasons, we would like to encourage MNP to continue to reduce the number of traffic stops for non-moving violations.

Child Neglect

We heard several cases of child abuse and neglect this term. These cases are harrowing enough to hear on their own. That is compounded when the facts of the case reveal other inhabitants of the child's residence did nothing to prevent the neglect or abuse. Because those co-inhabitants are not guardians or caretakers of the child, there is no way to hold them responsible for ignoring the crime. In other criminal situations, statutes such as Failure to Render Aid may be applied. There is no such statute for standing by and allowing child abuse/neglect to go on uncontested. We believe the state legislature should remedy this. The statutes for child abuse and neglect should be extended to cover anyone who fails to render aid to an abused child.

We would also like to suggest harsher sentencing guidelines for child abusers, particularly for child sexual abusers.

Other Suggestions

- A list of Grand Jury responsibilities prominently displayed in the meeting room.
- The Davidson County Juvenile Detention Center should be fully funded to prevent future escapes. In 2019, several teens escaped from the detention center following a cascade of employee errors and policy violations. We believe Metro should study the efficacy of outsourcing such an important part of the judicial system, as well as encourage continuing education of employees to avoid similar events in the future.

Final Thoughts

We found the experience of serving on the Grand Jury rewarding. It was a pleasure to serve with a group that was professional, courteous, and respectful with a previous knowledge of how a Grand Jury works. Because of our previous experience, we were able to quickly assimilate the evidence presented and judge it against state law. This produced a fair outcome and served justice to the best of our abilities. We each fully understood the role of the Grand Jury and the gravity of our responsibility.

Appreciation for their Support

We would like to extend a sincere thank you to the following:

- Judge Monte Watkins for allowing us this opportunity and Judicial Assistant Jazman Bowles for keeping us stocked in doughnuts and parking passes,
- Sgt. Sam Tetterton, who presented a majority of the cases we heard so individual officers and detectives can stay on the streets, keeping our city safe,
- Assistant District Attorneys Michel Claire Bottoms, Ben Ford, and Rodney Faulk, who answered our questions on the finer points of criminal law. We'd also like to extend congratulations to Mr. Faulk on his retirement,

- Grand Jury Foreperson Robert Davis for providing the guidance and leadership needed for us to discharge our civic duty. Mr. Davis emphasized that each Grand Juror has an equal voice and ability 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 Robert Davis as our foreperson, and

- A special thanks to Arnett Bodenhammer, former Foreperson, for providing insight and knowledge regarding our service on the Grand Jury for Mr. Robert Davis at the beginning of this session.


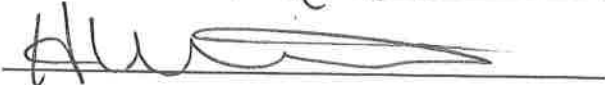

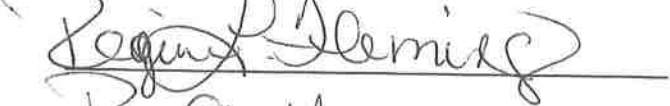
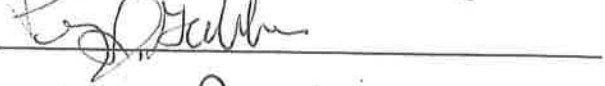



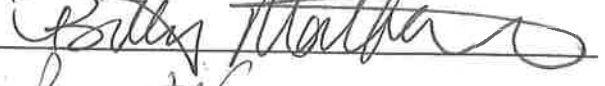


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