GRAND JURY FINAL REPORT
JULY 2003 TERM

Presented to
The Honorable Cheryl Blackburn
Criminal Court Division II
Davidson County, Tennessee

On September 26, 2003

We would like to thank the Court for both the privilege and pleasure of serving on the July 2003 Grand Jury for the Criminal Court of Davidson County, Tennessee. The significant time we as jurors expended on this endeavor is far outweighed by the knowledge garnered from this most unique experience. We are honored to have served this Court and our community as Grand jurors.

The July 2003 Grand Jurors would also like to express our sincere gratitude appreciation to our Foreman, Stan Fossick. His encouragement, support, patience and willingness to assist us, was invaluable to our growth as jurors. Mr. Fossick is a valued member of our community and we were fortunate to have served the Court under his guidance.

We also wish to thank;

1. Captain Rita Baker of the Domestic Violence Division for her assistance in explaining the dynamics of domestic abuse and what our police officers face when responding to domestic violence calls. We are extremely proud of the fact that Nashville's Domestic Violence Division is considered a model which other cities are studying.

We have one concern related to the Order of Protection "OOP" issued to domestic violence victims and others. We heard testimony which leads us to believe that many of our police officers are **not** aware that they **can** verify the existence of an OOP after 5:00 p.m. We have learned that OOP information can be obtained by computer access and, if that is not available, by telephoning the Sheriff's Office. **We would like to suggest** that this information be circulated to the police officers once again. We believe knowing a

telephone call can be made to obtain this information will enable police action to proceed more expeditiously when an OOP has been violated.

2. We would like to thank Captain Gary Goodwin of the Vice Division for speaking with us and showing us samples of the various types of drugs which are so prevalent on the streets of Davidson County. During our session as grand jurors, we heard a multitude of drug cases.

Some of us question the discretionary use of adding the offense of "with intent to sell" to a drug possession charge in cases where the suspects appear to be "drug abusers" as opposed to drug dealers. We realize that laws exist which make, for example, possession of more than .5 grams of cocaine a felony possession which necessitates the addition of "with intent to sell." However, we have talked with officers who did not arbitrarily add "with intent to sell" to a suspect's drug possession charge. When questioned about their decision not to add "with intent to sell" to the charge, their explanation was that they knew the particular person being arrested was not a drug dealer, but a "drug abuser."

Nashville has a drug treatment/rehabilitation program (which is discussed below) that has nearly an 80% success rate; however, drug dealers are excluded from participation in this program. It would be unfortunate for a "drug abuser" to be denied access to such a treatment program, because of a felony conviction of "possession with intent to sell."

We are also concerned that the charge of "child endangerment" is nearly always omitted on indictments where drugs have been found in a home or car and arrests made while children were present. **We would like to suggest** that the Department of

Children's Services be notified in such cases to assure that these children are placed in a relatives' home or some other safe place and further, that "child endangerment" be added to these indictments.

3. We would like to thank Pamela Ryan, ACA Manager/Administrative Assistant, Tennessee Department of Correction at the Riverbend Maximum Security Institution. for the substantial amount of time she spent in giving us a tour through the Riverbend Prison facility. Ms. Ryan informed us that the Department of Correction will, upon request, visit schools and speak to students. Ms. Ryan also stated that classes with students over the age of 16 can actually schedule a tour of the Riverbend Prison facility. **We would like to suggest** that the Department of Correction inform the Board of Education of this service, **and encourage its use**, as a form of intervention to help "at-risk" children.

4. We are grateful to Judge Norman for the establishment of the Drug Court and his residential rehabilitation program, DC4, associated therewith. We enjoyed our tour of the DC4 facility as well as our lunch with Judge Norman. Our lunch was prepared by some of the residents at DC4 who are drug abusers in rehabilitation. Judge Norman's DC4 residential rehabilitation program has a success rate of nearly 80%, and we as jurors and members of the community **would like to suggest** that his program be expanded to help even more drug offenders. We believe this program is evidence that many drug offenders can be rehabilitated, thereby significantly lessening crimes in our community.

5. We would like to thank Sgt. Tripp at the Police Training Academy for making us aware of all the training our officers go through both prior to and after

graduating from the academy. Additionally, we would like to thank Sgt. Gary Duncan and all the officers who train and maintain our Canine Division. These officers and their dogs are a remarkable part of law enforcement. Further, we also wish to thank Lt. Tim Allen and the Aviation team of pilots and mechanics who fly and maintain our helicopters. We appreciate and enjoyed the helicopter rides given to many of the jurors. **We would like to suggest** that funding be made available to increase the number of pilots to 12 and the addition of 1 more mechanic. We as jurors realize that this is an expensive task, but we feel that additional funding to the Aviation Division will (a) keep the equipment in better repair; and (b) allow for 24 hour "in air operation" comparable to Memphis and Los Angeles.

6. We would like to thank Wanda Ford, Director of Investigations at the Office of the Medical Examiner for her time in giving us a tour of the facility and indulging our numerous questions. We were given information ranging from autopsy to paleontology and were made privy to all of the functions of the Office of the Medical Examiner. We believe Davidson County is extremely fortunate to have such an ***au currant*** facility. We wish to thank all of the people who work in the very challenging capacities associated with this area of investigative police work.

7. We would like to thank Judge Betty Adams Green, Juvenile Court of Nashville, Davidson County, for helping us to understand the intricacies of the juvenile justice system. We were made aware of the voluminous services afforded those who go through this system; far too many to mention with specificity. However, we would like to call special attention to the (a) Family Dependency Drug Court which assists families who are on the verge of losing custody of their children due to substance abuse; the

(b) Community Probation program which follows up with those on probation by making home visits, collecting urine samples, making school visits, random curfew checks, providing help in finding jobs and making sure that educational, mental health and social services are provided, (c) establishment of the Davidson County Juvenile Detention Center Chaplain's Program, lead by Chaplain Keith Hall which affords the detainees spiritual counseling, worship services, and Youth Self Development Classes to those desiring such, and (d) establishing an educational program that requires 6 hours per day of school for the children, and also allows them to earn a GED. Thank you Judge Green for a most informative session and further, for the tour of the facility.

We noted while on our tour of the facility that a camera was placed in the girl's dormitory and we wondered if this camera was operable. While we understand the need for surveillance at all times, throughout the facility, we question if this surveillance is also carried out while the girls are dressing and undressing and whether or not this surveillance is done by a male or female attendant?

We would also like to thank all of the officers who testified before the Grand Jury during this session. Most were very well prepared, answered our many questions and explained in detail their course of action when questioned by the jurors.

We as Grand Jurors do have a concern about testimony given by officers who arrived on the scene after the fact, have no firsthand knowledge of what actually happened and have not interviewed or talked with the suspect or the victim directly. **We would like to suggest** that the actual arresting officer or the victim in such cases testify before the Grand Jury so that our questions can be answered without speculation and

uncertainty. We can say with certainty, that we had this concern in several of our domestic abuse indictments and with a case involving theft from a certain chain store.

We as Grand Jurors have had a number of positive experiences during the July 2003 session. We have also made a number of observations which we would like to discuss below:

1. We observed a troubling inconsistency in the establishment of bonds. We learned that the Supreme Court has ruled that an established list of recommended bonds is unconstitutional, leaving the decision of setting a bond amount to each Commissioner or Judge. We heard testimony from numerous police officers where similar charges brought against defendants with similar criminal backgrounds have bonds set at very widely differing amounts. We have no way to suggest specifically what must be done to correct this situation; however, since the Commissioners are reviewed on a yearly basis by the General Session Judges, **we would like to suggest** that this matter be addressed at that time. Perhaps guidelines could be established setting some sort of **range** (as opposed to an established list of recommended bond amounts) on bonds set for individuals, accused of similar crimes, with similar backgrounds. We believe that this would prevent such widely varying bond amounts. As it appears now, 4 individuals could be arrested for the same crime, at the same time, with similar criminal backgrounds, and 2 could go to night court and receive a $5000.00 bond, and 2 could be assigned to appear in court the next day and receive a $30,000 bond.

2. We would also like to address the issue of the large number of misdemeanor offenses that are presented to the Grand Jury. We recognize a defendant's right to have charges bound over to the Grand Jury; however, these cases take up the

valuable time of the police officers who must testify, as well as the Grand Jurors' time. We would encourage the General Sessions Court Judges to increase their efforts to resolve these cases and not bound them over to the Grand Jury.

3. We have heard testimony on a number of sealed indictments. Many of these indictments involve the molestation of children. We have discovered through testimony given in a substantial number of these cases that the suspect has even confessed to the charges. What disturbs us is the fact that by the time the sealed indictment reaches the Grand Jury, the suspect can no longer be located. We repeatedly heard testimony that the defendant is believed to have left the area, or, in one case that the defendant may have returned to his native country. We believe that each suspect who removes himself from this jurisdiction while waiting for a True Bill from the Grand Jury is potentially out molesting more children. **We would like to suggest** that suspects who have confessed or, where there is significant evidence that the suspect committed the crime, be arrested immediately.

4. We have heard testimony of the drug abuse in our prisons. When asked about the odor that the use of certain drugs would produce, we were told that the prisoners use incense to mask the odor and that it would be a violation of their civil rights to deny them the use of incense. We question the logic that allows the State to stop all conjugal visits for prisoners, and yet the State is **unable** to stop the use of incense to mask the odor of drugs. We were given other reasons why more inmates are not punished for drug use, i.e., air circulation not allowing guards to know specifically what cell or area the smell of drugs are coming from, etc. We as jurors **would like to suggest** that the same logic be used in prison drug use as is used in arrests made on the outside.

By way of example, a vehicle is stopped and there are drugs and a weapon found, there are 2 or more people in the vehicle, and no one confesses to ownership of the drugs or weapon, in that scenario, **all** suspects are charged with the possession of drugs and ownership of the weapon.

Some (but not all) of the jurors have suggested that the term of service for the Grand Jury be limited to perhaps 2 months, with longer sessions per day. They cite the difficulty in arranging work schedules for 3 months as well as the fatigue involved in serving such a long term.

In closing, we realize the July 2003 Grand Jurors are in fact civilians and that our suggestions are based on a narrow, short term introduction to the criminal justice system. Our goals, however, are the same as those of you who have made law enforcement a career. We seek only the betterment of Davidson County, the safety of our police officers and the safety of our citizens. We once again reiterate our sincere gratitude to the Court for the opportunity to serve.

Respectfully submitted,

Stan Fossick, Foreman

Cynthia Lee

Linda Caldwell

Emily McCormick

Bonnie Clifford

Lewis McMillan

George Dunn

Angela Shelton, CMSW

Michelle Fleming

Sylvia Watkins

Betty Jenkins

Angela Watson

Rhonda Jennings

Holly Whitley By S.W.