Grand Jury Final Report

Presented to:
The Honorable Steve R. Dozier
Criminal Court – Division One

Davidson County, Tennessee
January 12, 2009 – March 27, 2009

Grand Jury Final Report

Introduction

We, the Davidson County Grand Jurors for the January 2009 term, submit the following final report. First, we thank Judge Steve R. Dozier for the opportunity to serve on this Grand Jury. Under the leadership of our foreman, Mr. Stanley Fossick, we were ably guided to fulfill our duties of inquiry and report as required by the Tennessee Rules of Criminal Procedure and as set forth in the Charge to the Grand Jury – January Term, 2009. We undertook inquiries into criminal cases submitted to us by the District Attorney General. We undertook several on-site visits to various county venues to satisfy our obligation to inquire into areas not submitted to us by the District Attorney General. We make this report to satisfy our obligation to report the results of our actions to the Court.

District Attorney General Initiated Inquiries

We would like to thank the numerous authorities who gave of their time to help us understand our obligations, understand the law, and evaluate the 1,009 bills that came before us this term. District Attorney General Victor "Torry" Johnson III gave the Grand Jury a detailed presentation regarding our obligations as a Grand Jury. He explained that our primary focus was to determine whether there was probable cause for a case to proceed to criminal court.

Capt. Todd Henry, Commander Special Investigative Division gave the Grand Jury an informative presentation on drugs, including examples of various types of drugs commonly involved in crimes in Nashville. This information was invaluable in helping us to understand the depth and breadth of the drug issues in Nashville. He gave us a context in which to look at the innumerable cases we listened to where drugs were involved either primarily or as the underlying cause of the circumstances. Lieutenant Mitch Fuhrer, Gang Unit brought a video presentation that graphically demonstrated the impact gangs are having on crime in Nashville. These presentations were very useful in our deliberations this term.

Capt. Rita Baker, Commander Domestic Violence Division was instructive both legally and practically. Her explanation of the broad range of relationships the domestic violence law covers, of the requirement that the police arrest a "primary aggressor" if s/he can be determined, and of why someone does not "just leave" the relationship was crucial to our understanding of the numerous domestic violence cases we heard this term.

This term, the Grand Jury heard 1,009 cases. We could never have heard this number of cases were it not for the able presentation of Sgt. Matt Chance. His succinct, complete descriptions of the facts of the cases presented were commendable. We applaud the change made during our term of service which allowed Sgt. Matt Chance to

review cases to come before the grand jury and to personally present those where the presence of an officer at the scene was not required. Sgt. Chance does an excellent job and his work allows officers to remain on the street who otherwise would have to leave their responsibilities to appear before the grand jury. . We understand this idea came from a meeting between District Attorney General Torry Johnson and Police Chief Ronal Serpas and was implemented within weeks of the discussion. This was a tremendous asset to the Grand Jury process.

The more complex cases were still presented by the officers whose first-hand knowledge was critical to determining if a true bill was warranted.

Additionally, we heard from several citizens, representing themselves or their employers.

Grand Jury Initiated Inquiries

In order to fulfill our obligations to inquire into the condition and management of prisons and other county buildings and institutions within the county, this Grand Jury made several on-site visits to various county venues.

We toured the Riverbend Maximum Security Institution. This was an eye-opening experience. We thank Steve Bell, one of the instructors at the prison, for taking his time to lead us on a tour of the prison. Not only did he explain the system well, but he was very helpful in facilitating our conversation with several of the prisoners, both on and off death row. We must note that the institution's kitchen received a 100 on the posted health inspection.

After touring the Riverbend Maximum Security Institution, we visited Judge Seth Norman's drug court. It was extremely interesting. No wonder it has drawn interest and visits from officials across the country looking for a model in successful rehabilitation of nonviolent drug offenders. We believe it is not as well known and appreciated as it should be by the citizens of Nashville. Every graduate of the residential program represents someone returning to the general public better equipped for employment and living a drug-free life. Not only does it have a 25% recidivism rate (as compared to the 75% recidivism rate seen by most rehabilitation programs), but the cost per offender per day is less than half what it is to incarcerate someone in a prison. We commend Judge Norman for his tireless efforts.

We were briefed by Judge Betty Adams Green on the Juvenile Court and were given a tour of the facilities. We were impressed with ongoing efforts to implement improvements and enhance the quality of their work. For 2007, they met 97 percent of operational program measures, a 27 percent increase over 2006.We applaud the cooperative effort under way by the Juvenile Court, Police Department and Metro Nashville Public Schools to develop the Metro Student Attendance Center that opened with the 2008-09 school year to address loitering during school hours. We applaud Judge

Green for her efforts in making individualized decisions about whether a juvenile should be tried as an adult.

We commend the effort of Securicor New Century, the contract management firm operating the Juvenile Detention Center. They appear to be doing an outstanding job in less-than-adequate facilities.

We also visited Metro Nashville Police Training Academy where we were given a taste of what recruits go through before becoming police. We want to thank Officer Clint Gilleland for his instructive presentation on the use of force and weapons, Officer Johnson on his discussion of aviation, and Officers Robert Brown and Sgt. Jeff Grimes for their explanation of the canine unit.

Several of the individual grand jury members were permitted to ride along with Metro police. In particular, we thank Officers Hummell and Hutchinson for their patience with us and the insight they shared on these ride alongs.

Lagniappe

We thank Mayor Karl Dean for spending time with us discussing the issues facing Nashville in these tough economic times. We were delighted to hear that a DNA lab will be built this year for the Metro police. Mayor Dean also shed a different light on his emphasis on education as being part of his concern for safety when he noted that 90% of those in jail did not complete high school.

We also thank Chief Ronal Serpas for the time he spent with us personally, the presentation he gave to us on the Metropolitan Nashville Police Department, and his allowing us to attend a Friday COMSTAT meeting where we saw firsthand how the reporting from the precincts and other areas of work results in cooperative action. We were impressed by the technology used to locate crimes from the previous week on maps and how this guides police in where to place their resources. This weekly meeting is open to the public. We encourage interested persons to visit or to attend weekly meetings in the precinct where they reside.

We were grateful to learn major crime incidents in Nashville fell for the fifth consecutive year in 2008 and are at the lowest level in 18 years. These figures include the lowest levels of violent crimes since 1991, property crimes since 1990, rapes since 1980, motor vehicle thefts since 1985 and burglaries since 1968. These figures are a clear indication of outstanding work by the Metropolitan Police Department.

We cannot thank Officer Matt Chance enough. Officer Chance was integral to our ability to process the number of cases we dealt with this term. We previously mentioned him under District Attorney General Initiated Inquiries. However, we would be doing a disservice to relegate him to that one section of this report. He was truly the thirteenth item in a baker's dozen. Not only did he do a tremendous job in analyzing,

summarizing and presenting cases to us, but he was positively prescient in his anticipation of our questions and concerns.

Recommendations

Administrative Concerns

- Above all else, we recommend that Officer Matt Chance, or a similarly gifted and trained officer, be retained to present to the Grand Jury those cases that do not require the presence of the officer involved. We concur with a suggestion made at COMSTAT that Sgt. Chance be used to train police academy recruits in reporting to the Grand Jury.

- In the cases we heard, we had a few instances where better communication or follow-up among various officers involved in an arrest would have enabled us to better understand the crime and make decisions. This tended to happen when the officer appearing before us had written the report but did not have knowledge from the officers on the scene. In other instances there were crimes where police were not called to the scene and the victim went to the station to report the crime. In a very few situations the reporting officer had not talked with the suspect and did not even know whether anyone had tried to talk to the accused. We emphasize this was a very small minority of cases.

- A third administrative concern is regarding the initial presentation given by the District Attorney General to the Grand Jurors explaining their service on the Grand Jury. We recommend that all Grand Jurors AND alternates attend this first meeting OR that the District Attorney General present this information to those chosen to serve as regular or alternate Grand Jurors at the time they are chosen. Giving the alternates the benefit of this initial presentation should facilitate an alternate's transition to a member of the Grand Jury.

Sentencing Guidelines and Early Release

When Chief Serpas met with us, he surfaced his concern about repeat offenders released early from overcrowded Tennessee prisons committing more crimes. We saw this same trend in the cases coming before us. This was again identified in the Sunday, March 18, 2009 issue of The Tennessean. There are two issues here: The lengths of the sentences given to violent repeat offenders AND the early release of those offenders.

We concur with Chief Serpas and other members of the Tennessee Public Safety Coalition in placing at least part of the blame on Tennesssee's sentencing practices. We concur with their recommendation urging members of the Tennessee state legislature to study this issue and push for tougher sentencing for certain violent crimes, especially robbery and repeat offenses. As to robbery, had the 124 people convicted of robbery in 2005 been convicted as Class A felons, they would still be in prison and would not have committed and been convicted of 234 additional crimes. As to repeat offenders, in 2008

of the 13,978 people who were arrested for homicide, robbery, aggravated assault, burglary, drug offense and/or weapons violation, almost 63% had been previously convicted of an offense. Additionally, to those who would say that early release is necessary because of the costs associated with incarceration, we disagree. It does not cost too much to keep a convicted criminal in prison when the alternative is the cost associated with releasing this criminal into the general population when s/he has not served his/her sentence and recidivism rates are as high as they are. Again, we urge stronger sentencing guidelines and limitations on early release.

Bonds

We recognize that the purpose of requiring the accused to post a bond is to assure that the accused appears in court. We also understand that all accused are entitled to a bond except in cases of first degree murder. However, we do not believe that the severity of the crime is being appropriately considered in setting the bonds for those accused of particularly heinous crimes, e.g. crimes against children. Just as the criminal code recognizes that someone may be denied any bond when accused of the crime of first degree murder, we believe the courts should recognize that those accused of violence against children may be a similar flight risk even if they have ties to the community, no prior record, and no history of failing to appear.

Drugs with Children

We were concerned by the crimes, primarily drug related, committed by adults who had young children in the car with them. This poses a major threat to the very lives of these children and we wonder why, in some instances, charges of child neglect or reckless endangerment were not brought against the adults in addition to those directly related to their crimes.

Juvenile Detention Center

While this matter has surfaced in other grand jury reports, we cite critical needs at the Juvenile Detention, such as: a cover over the very small recreation area so it can be used more effectively, more cameras and additional equipment for monitoring residents, and safety issues such as a faulty drain that has backed up water onto a carpet that is now moldy. We affirm the relationship between the Juvenile Detention Center and Metro Schools to operate a certified program of classes for residents.

Misdemeanors and DUIs

We were concerned by the number of misdemeanor and DUI cases bound over. While this is not a new issue, we surface it at a time when criminal court dockets are overloaded and budgets are tight. We suggest taking a look at this issue for any actions that are appropriate, including the possibility of a special grand jury to hear these types of cases on an expedited basis.

CONCLUSION

We have gained insights about the level and nature of crime in Metropolitan Nashville. We also have gained even greater appreciation for the high quality of work of the Metropolitan Police Department, the District Attorney General's Office and the Criminal Courts. We have had the opportunity to see first hand some of the creative approaches being taken to rehabilitate non-violent felons and approaches to greater efficiency and enhanced communication within and among the various agencies.

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