Grand Jury Final Report

The Honorable Cheryl Blackburn
Criminal Court, Division III

Davidson County, Tennessee
January 7, 2008 - March 20, 2008

Grand Jury Final Report

The members of this jury would like to thank Judge Cheryl Blackburn for the opportunity to serve on the Grand Jury of the Criminal Court of Davidson County for the January 2008 term. Under the experienced leadership of our foreman, Mr. Stanley Fossick, we were able to meet with experts, tour community agencies, and talk with agency representatives. This information proved to be invaluable as we made every effort to reach an informed decision on the 856 cases we were presented.

Onsite training and consultation by professionals

- District Attorney General Victor S. (Torry) Johnson, III from the 20th Judicial District presented the history, structure, and responsibilities of the Grand Jury
- Mikayla Matthews, assistant district attorney, provided law consultation, answers on individual cases, and gave us additional explanations as needed on the processes of the courts
- Capt. Todd Henry, commander of Special Operations Investigation Section, taught us the details of the illegal drugs on the streets
- Captain Rita Baker, commander of the Domestic Violence Division with Metro Police Department
- Chief Ronal Serpas of the Metro Nashville Police Department
- Mayor Karl Dean
- Frederick Hilliard, director, and Rusty Lawrence, executive director, from the residential self-help organization The Academy, an organization for substance abusers, ex-convicts and homeless individuals
- Sheriff Daron Hall from the Davidson County Sheriff's Office

Training at community sites

- Our tour of the Metro Police Training Academy gave us an in-depth look at the extensive training our officers complete before being commissioned. The academy grounds also house the Aviation Division and the Canine Unit. We would like to thank the following officers for demonstrating the talent of each of these departments: Sgt. James Johnson with Aviation; Officer Robert Brown, Officer Wilfred Hunter, Officer Joe Shelton, and (canine) Officer Memphis with the Canine Unit; Officer Ed Lawrence in hostage and negotiations training; and Officer Gilleland with SWAT training.
- Davidson County Drug Court with Judge Seth Norman and Janet Hobson, program director
- Riverbend Maximum Security Institution and the inmate run program called *Project: New Beginning*
- Davidson County's Office of the Medical Examiner with the Director of Human Resources, Bill Leftwich, and the Assistant Medical Examiner, Dr. Thomas Deering
- Juvenile Court of Nashville, Davidson County with Judge Betty Adams Green; Bob Ross, director; and Tim Adgent, court administrator
- Juvenile Detention facilities with Pat Curran, superintendent; Glenn Cook, assistant superintendent of security and operations; and Yolanda Hockett, assistant superintendent of programs
- Police Ride Alongs were done in various precincts by a number of the jurors.
- Metro Nashville Police Department's Crime Analysis meeting, or Compstat, directed by Deputy Chief Joey Bishop and Chief Serpas

We would first like to commend the wonderful men and women of the Metropolitan Nashville and Davidson County Police Department, or MNPD. As we have listened to many hours of

testimony from these officers we have learned just how caring, compassionate and dedicated these professionals are. Many of us take for granted the familiar blue lights flashing on the highways and byways, but as we drive past we have no idea what risks they are taking to protect and serve us.

Many citizens also do not realize that our dedicated police department has succeeded in dropping the major crime rate to the lowest number of incidences since 1989, even though there has been a 20 percent increase in Nashville's population. Furthermore, our police department has accomplished this while being under funded and understaffed. They have accomplished this by providing the highest level of professional law enforcement training for new recruits and the same high quality of in-service training for veteran officers.

MNPD's training academy also provides the same specialized training for the Vanderbilt University Police Department. Several of the Vanderbilt officers testified before the Grand Jury and we were impressed with their work and their willingness to work in tandem with Metro police officers. We suggest other police forces receive their training by utilizing MNPD's academy.

We encourage all citizens to help these and the other public servants of our community by becoming involved. We suggest a few of the following ideas.

- Call, write, or email your legislators and tell them you support the recently enacted "Crooks with Guns" law that ensures violent criminals serve their full sentence.
- Seek out an organization in the community to volunteer your services and be consistent in your commitment. A little time will go a long way.
- Thank a police officer, firefighter, teacher, community leader or anyone who serves the public. They often times hear our complaints, but not our appreciation.
- Support the efforts to hire additional officers so our police department will at least be staffed to the minimum standards for the population of our city.
- Get involved in holding down crime by reporting illegal activities you know are occurring or happen to witness. Check the Metro Police Department's website at http://www.police.nashville.gov/ regularly to see if you can identify or know the location of wanted fugitives.
- Report drug activity in your area by calling 244-DOPE. You can remain anonymous.
- Begin or get involved with a Neighborhood Watch Program in your area.
- Don't drink or use drugs and drive. If you think you cannot afford a taxi, you will be unpleasantly surprised at the cost of a ticket for Driving Under the Influence, or DUI. Worse than getting a ticket is to be the cause of an accident that injures or kills you, someone you love, or an innocent citizen on the road.

DUI concerns

We are very concerned about the number of impaired drivers on our roads. Thanks to the efforts of our police department, the number of individuals arrested for Driving Under the Influence, or DUI, was up 32 percent in Davidson County in 2007. Yet, we know our officers were not able to locate every offender.

Once stopped for DUI many offenders refused to submit to either a breath test or a blood test at the request of the officer. Since officers do not request these additional tests unless a driver has demonstrated other clear signs of being under the influence, we were very disturbed by the number of people refusing the tests. Frequently officers found these offenders had numerous prior DUI arrests and other complicating factors such as a suspended or revoked driver's license. Yet these same offenders were back on the road, again, putting fellow citizens at great risk.

While some may argue these offenders have the right to refuse a DUI test, we argue that we have the right to prevent intoxicated drivers on the road. It is our opinion that if an individual does not submit to the breath test because of concerns with its accuracy, it is a simple procedure to submit to a blood test at a medical facility. It would be more financially feasible for taxpayers to shoulder the cost of citizens submitting to a blood test when the results were under the legal limits, than to have to pay the cost of losing another innocent victim.

We feel very strongly that changes need to be made by our legislature to facilitate a process that increases the safety of our roads. First, we would like to require individuals to show a valid driver's license and proof of insurance when obtaining new license plates or renewal tags. Second, we believe the arresting officer should have the right to revoke an individual's license immediately in two situations: if the defendant registers above the legal limit; or if the defendant refuses to submit to a sobriety test without having evidence of a medical condition that could result in similar symptoms. Third, we agree with the recommendations by the Governor's Task Force on DUI law to have ignition interlock devices for repeat offenders. Fourth, we also agree with the Governor's Task Force on DUI that the state's "shame law" requiring a DUI offender to spend 24 hours picking up trash on the side of the road while wearing a vest proclaiming "I am a drunk driver" should be repealed and replaced with mandatory jail time. Finally, we would like to see the law banning open alcoholic beverages extended to include passengers. With the current law, drivers can simply pass the open container of alcohol to the passenger to prevent being charged.

Finally, we strongly suggest to individuals who want to defend the right of a person to drink and drive to mull over the following thoughts.

- Anyone of age is legally able to purchase alcohol, take it home and drink as much as they want at anytime they want without fear of being arrested for DUI.
- A person with multiple DUI offenses is breaking the law with no regard for the consequences to anyone.
- It is very possible a multiple offender needs a rehabilitation program for drugs and/or alcohol, so defending their right to drink is not a kindness to the offender.
- Paying the cost for a taxi ride home is much cheaper than the costs incurred when arrested for driving while intoxicated.
- The financial cost taxpayers bear for DUI offenders is very high, but the cost to the family who loses a loved one to a DUI offender is immeasurable.
- If you are willing to argue someone's right to drink and drive, are you willing as a taxpayer to shoulder the hidden expenses created by the actions of DUI offenders such as the cost of additional DUI task force officers, the cost of public defenders, and the costs incurred by the offender who has no car or medical insurance?

Illegal use of legal drugs

We would first like to commend Judge Seth Norman and his Davidson County Drug Court Program for its unique residential treatment program for adult nonviolent drug offenders. The effort to move offenders away from prison and into treatment is not only cost effective, but it provides hope for the addict and the community.

We were also pleased to learn of a second, recently opened rehabilitation program for adult drug offenders called The Academy. The Academy is modeled after a 34-year old program in San Francisco called Delancey Street. Both the Drug Court and the Academy base their rehabilitation efforts on residents learning to rethink the science behind their behaviors, while developing new patterns for living. Neither program is a "quick fix" which, in part, provides their recipe for success. It is the program's formula for empowering the individual that provides a lower rate of recidivism.

In addition to the programs for adult drug offenders, we learned about the Davidson County Juvenile Court programs for juvenile drug offenders and their parent(s). The Family Drug Court Program provides counseling, educational and parenting skills to alcohol and drug addicted parents. The Juvenile Drug Court Program provides case management, judicial monitoring, and treatment referrals for juveniles with serious drug problems. While we were very pleased to learn about the availability of these programs, we became very concerned about the ongoing battle to keep these drugs off of the streets.

Many of our drug cases included the illegal possession of a controlled substance, which in layman's terms is a legal classification of drug that has the potential for abuse. Since these substances are, by definition, supposed to be controlled we began to question how these drugs were making it to our streets in such large quantities. According to evidence we heard, we feel there are a number of situations needing further investigation.

- It is possible patients are frequenting a few physicians known to provide prescriptions for controlled drugs in larger than normal amounts, bringing into question the medical necessity.
- It is possible a few pharmacists may be using deceptive practices such as utilizing patients' unfilled prescription refills for illegal gain.

We realize we are not experts in the medical field, but based on the number of cases we heard involving the large number of prescription drugs being sold illegally we know this issue needs to be addressed. We strongly recommend that the medical experts on the Pharmaceutical Board participate in developing more stringent standards of oversight in conjunction with the experts in law enforcement and drug suppression, the Narcotics Division of the Metro Police Department.

The importation of illegal drugs

We were very distressed to hear of the vast amount of illegal drugs traveling into our city. Marijuana, ecstasy, crack cocaine and heroin are arriving via common shipping methods,

airplanes and any form of motor vehicle transportation imaginable from Mexico, while heroin is arriving from Africa. Thanks to the efforts of our Metro Police Department, narcotics violation charges for 2007 show that our officers are arresting and charging more violators than any other time in this decade. While their efforts are to be commended, this issue highlights a problem Nashville is having with our borders not being secure and immigrants entering and remaining in the country illegally.

Illegal Immigrants

Further compounding our concerns with the drug shipments from Mexico are the number of illegal immigrants in our city who are charged with felony crimes. We felt particularly frustrated with this issue for several reasons.

- Many of these illegal immigrants have multiple aliases and no ties to Nashville, so while Metro officers are gathering evidence on a crime, these felons are free to leave and become difficult to trace.
- If these felons flee to Mexico, there is very little cooperation from the Mexican authorities to assist us in the apprehension and prosecution of these criminals.
- A large number of the Mexican immigrants do not speak English. This makes criminal investigations difficult at best, and impossible at times.
- The distrust of officials, due to the fear of deportation, does not provide for integration into the community or support of law enforcement investigations.
- Our only consequence for illegal immigration is deportation and this is only used on illegal immigrants who are charged with a crime.
- The only illegal immigrants officials search for are the ones charged with a felony. Why is this? Because there is not enough time and resources, yet (see next bullet)
- The taxpayers have to shoulder the expense of providing services such as interpreters, education, health care, and the cost of crimes perpetrated on people who are citizens and legal immigrants.

Even though Nashville is many, many miles from the Mexican border, our citizens are paying the price for our unsecured borders and lax immigration policies. For years we have been turning a blind eye to this illegal activity, but as grand jurors we have come face to face with the impact this is having on our community. We offer that the citizens and legal immigrants of Nashville should not have to continue to carry the cost of providing services for people who have broken the law and obtained entry into the country illegally. The resources we spend on illegal immigrants should be used to stop these lawbreakers, not support them.

We support the efforts of the Davidson County Sheriff's Office, under the leadership of Sheriff Daron Hall, in this area. Along with other Sheriff's offices across the country they have recently entered into a partnership with the Federal government under the Delegation of Immigration Authority Act, permitting trained, designated officers to perform immigration law enforcement functions under the supervision of U.S. Immigration and Customs Enforcement (ICE). According to the ICE website,
(http://www.ice.gov/pi/news/factsheets/070906factsheet287gprogover.htm)
this program allows ..."local law enforcement personnel, incidental to a lawful arrest and during

the course of their normal duties, to question and detain individuals for potential removal from the United States, if these individuals are identified as undocumented illegal aliens and they are suspected of committing a state crime."

Juvenile Crime

The overall rise in 2007 in juvenile crime on our streets and in our schools requires the leaders and citizens of Nashville to work together to develop a broad-based approach to saving Nashville's youth. Current juvenile crime statistics verify the challenges the community faces in overcoming this troubling trend of a 100 percent increase in violent juvenile crime.

Mayor Karl Dean has been proactive in his leadership to reverse this trend. His efforts have included summit meetings with a variety of city leaders and citizens to develop collaborative and comprehensive interventions. Among the leaders participating in this forum are Judge Betty Adams Green with Metro Juvenile Court, Chief Ronal Serpas with Metro Nashville Police, and Chris Henson with Metro Nashville Public Schools.

Juvenile Justice Center

We were delighted to meet with Judge Green and her staff and to tour the Juvenile Justice facilities. The changes implemented by Judge Green have resulted in streamlined and coordinated services for juveniles and their families. Judge Green and her staff are to be commended for providing these additional services without an increase in staff or funding.

Although we were very happy with staff members, we were very concerned about the facilities. It was clear to us that the services are being provided in a facility that has outgrown its usefulness for the population it serves. We are concerned that the design flaws may even contribute to unsafe situations and we strongly recommend either an upgrade or a new facility for the reasons listed below.

- The outside, uncovered courtyard is the only place for juveniles to play team sports, yet it is unusable during inclement weather.
- A gymnasium would provide a place for these troubled adolescences to participate in team or individual sports. This organized play would, at minimum, result in increased muscle development and overall physical health and, at best, provide a chance to develop leadership skills and self-esteem.
- The number and size of the classrooms was inadequate for the number of juveniles in attendance.
- A small, narrow room housed the library and technology. The size and design was woefully inadequate for group lessons in research or technology.
- Currently the cafeteria is used as an alternative for any program that has no permanent space. It is an overflow for classes, a part-time theater and a recreation room until mealtimes interrupt.
- There are an inadequate number of shower stalls for the number of residents in the facility.
- The door to the courtroom is located at the end of the hallway where the females are housed. This requires staff to check before escorting a male into the hallway to insure the females' privacy is not compromised or to take a circuitous route to court.

- The school is lacking in available supplies. When we asked them to supply us with a current list of items needed, the requests were for supplies that should be basic to the program. Some of the items needed are color copy paper, finger paints, color pencils, write-on transparencies, DVD/VHS player, computers with CD burner, extra projector screen, a two-shelf cart with wheels, ten headsets for computers, a four-drawer locking file cabinet, a large locking cabinet, hanging file folders, library books for adolescents, educational and G/PG rated movies, and bookcases.

Metro Police Department and Juvenile Crime

In addition to the efforts by the Juvenile Court to reverse the trend of growing juvenile crime, Chief Serpas with the Metro Police Department feels his department's continuing outreach in the community has had and will continue to have a positive impact on gangs and other negative influences young people face. Officers throughout the city, including Chief Serpas himself, have attended awareness meetings to teach citizens about the issues affecting their neighborhoods and to explain the importance of preventative measures to reduce the juvenile crime rate. Some of the early intervention programs provided by the department are as listed below.

- Drug Abuse Resistance Education or D.A.R.E.
- Police Explorers
- Gang Resistance Education and Training
- School Resource Officers
- Fraternal Order of Police, or F.O.P. summer camp

Schools and Juvenile Crime

Community leaders are suggesting that one solution to juvenile crime is to build stronger relationships between students, families and the schools. The reasoning is that the first line of defense for fighting violence is through the home and the schools. We strongly agree with that premise, but we also have some significant concerns.

- There is a significant increase in the number of serious crimes committed by school age juveniles.
- These juveniles often have a history of serious behaviors and criminal activities.
- Many of these juveniles were already enrolled in school and still committed the crime(s).
- If being arrested and taken through the structured setting of juvenile court does not stop the criminal behavior, how is being placed in an educational setting for non-offenders supposed to be an effective deterrent?

One of the community's most recent criticisms of the schools has been the inconsistency of accurate attendance statistics. Unfortunately, this lapse in recordkeeping in some of the schools has tarnished the image of all. While we strongly agree that accurate attendance is a must, we heard from educators that the computerized attendance program had been fraught with problems. The lengthy delays and multiple program glitches caused many educators to be faced with hard choices on what to do with a roomful of students while they input their statistics a second or third time. In addition, the educators reported there was no support staff available to enter their attendance numbers when these connectivity or programs issues arose. They also voiced their

discouragement that this issue was reported to the public without explaining they choose student interactions over statistical details. Instead it has been reported that "teachers said they did not have the time" to take attendance.

If the community is going to make the schools an educational intervention for offenders, then we need to include the professionals who will be working with them in the decision-making, planning, development and implementation of these programs. We often see community forums, community meetings, and interviews that include business people, parents, teenagers, directors of community programs, people connected with outside agencies, et cetera, but we do not see the primary providers of the programs involved.

We decided to include some information we obtained from our interviews with administrators and educators. We asked what they needed to provide effective treatment and we heard the following concerns and ideas.

- **Concern**: The school professionals are not receiving information on juveniles who are charged with crimes even though the juvenile is placed into the school.
  Idea: Have someone from the court contact the school administrator to make him/her aware of the juveniles history so a Support Team, or S-Team, meeting can be held to develop an effective treatment program.

- **Concern**: One intervention being used for juvenile offenders is to transfer the offender to a different school, yet the receiving school officials are not included when the decision is made nor are they included in developing an effective program of intervention.
  Idea: When an outside agency determines the students needs to change schools as a therapeutic intervention, a treatment plan needs to be developed with the receiving school's administrator or their representative. The role and support provided by each profession (both school and agency) needs to be clearly outlined. This is not to create more paperwork, but rather to provide clearer guidelines for communication and participation of all involved professionals.

- **Concern**: Juveniles are bused to school locations that are outside the ability of the student and parents to stay connected and participate in after-hours programs and events.
  Idea: Juveniles need to be allowed to go to school in their community. Instead of paying the cost of busing a juvenile across town, support programs should be developed in the community. Programs such as extended school days, after-school tutoring and sports programs are particularly important to students who have limited parental guidance. Community agencies and businesses could be instrumental in providing manpower and resources for counseling, mentoring, tutoring and training for students and families. Community activists could get involved by spearheading the coordination of these services.

- **Concern**: Money is spent for community agencies to come into the schools to provide services to students during the school day. While the services are valuable, the fact that students are pulled from classes to receive them is not helpful to the student or the educator. Also, these "pull-out" programs do not provide coordinated support between their services, the student and the educators.

Idea: Allow students to go to school in their community, provide extended school days for students needing these services, and coordinate the student's schedule so he/she is able to receive the support services without disrupting the academics.

- **Concern**: When students are bused outside of their community educators are prevented from having intimate knowledge of services available for the student in his/her community. It is also very difficult for community programs to interact and develop a connection with the student's school. Finally it makes it difficult, if not impossible, for some parents to attend school events in the daytime and/or evening hours.
  Idea: Keep students connected to their community by allowing educators to serve them in that location. Educators can be one of the best sources of resources available to a student because the educator has a stake in whether or not that child succeeds.

- **Concern**: Individuals and groups who are not accountable for the results are establishing the rules in the schools.
  Idea: Just as employers establish guidelines for employees, schools need to be able to establish guidelines for students. Public situations, groups and places of employment commonly expect participants to follow rules for areas such as dress codes, expected task performance, definitions of appropriate and inappropriate behaviors, et cetera. Parents and community members should support administrators and educators as they establish, teach and enforce school policies.

- **Concern**: Individuals and groups who are not accountable for the results are establishing the rules in the schools. (Part II) Students and parents have been encouraged to voice their opinions on school policies. While this initially appears to be a positive intervention, there has never been 100 percent agreement by parents on the policies that should be adopted. This has resulted in numerous complaints being lodged against administrators and educators when they enforce established policies. Administrators are spending more time responding to complaints about the enforcement of Metro's polices and less time interacting with staff and students.
  Idea: Just as a judge has the ability to uphold the law in a manner they deem beneficial to the offender and society, principals should be allowed to run their building in a manner they feel is beneficial to the student body. Principals should not be required to complete extensive paperwork each time a parent disagrees with a policy that has been outlined in the Student Code of Conduct. (The Student Code of Conduct is a booklet handed out to each family and a signature is obtained from each parent that the book has been read and understood.)

These are just a few of the concerns and suggestions we received from educators as we tried to find ways to positively impact our youth. Schools are one of our most valuable service providers and it is time to let our school administrators and educators know we have faith in their professionalism. We are not suggesting spending more money; rather we are suggesting that efforts be made to make more efficient use of what is currently available. It is time to keep focus on empowering the schools to connect with the students, their families and the community around them. Empowerment makes everyone in the community a service provider.

Summary

Once again we would like to say we enjoyed our service. We would like to offer that it is time to reconsider how much Grand Jurors are paid. We realize it is an honor to be of service, but we suggest that the original payment of $10 per day, established before the cost of gasoline was over $3.00 a gallon, be increased to reflect today's costs.

We would like to thank all of the officers, detectives, citizens and officials who came before us to testify. We would like to recommend that in the future anyone appearing before the Grand Jury come with all prepared documentation and case paperwork. We were entrusted with a task that we took very seriously and, a few times, we asked for information that we felt may have been very pertinent to the case but the prosecutor did not bring the case file.

We would like to repeat the wish list of the Davidson County Juvenile Detention School because of their great need for these supplies. To donate any of these items or money to purchase these items, please contact Principal Janette Carter at (615) 862-7140 or janette.carter@mnps.org.

Color copy paper
Color pencils
DVD/VHS player
Extra projector screen
Ten headsets for computers
A large locking cabinet
Library books for adolescents
Bookcases
Finger paints
Write-on transparencies,
Computers with CD burner
Two-shelf cart with wheels
A four-drawer locking file cabinet
Hanging file folders
Educational and G/PG rated movies

Respectfully submitted,

Carmen Coats
(Carmen Coats)

Ira Covington
(Ira Covington)

Vanessa Lutton
(Vanessa Lutton)

Connie Morales
(Connie Morales)

(Bernard Pargh)

(Gerald Rutherford)

(Marlan Seward)

(Vickie Silver)

(Beverly Smitchens)

(Marcelle Thomas)

(Mary Ellen Wilson)

(Anita Vaugh)

(Stan Fossick, Foreman)

(Alternate)

(Alternate)

(Alternate)

(Alternate)