By late Sunday afternoon all jurors—twelve with two alternates—are selected and sworn in. Their oath is to uphold the laws of the state of Florida, and as each indicates their fealty there is the echo of "We have no king but Ceasar." Though several gave indications of Christian influence during the interview process (one participated in Life Chain), all are in agreement that the state of Florida is now their "higher power."

Monday, day eight of the proceedings, finally brings all parties into the courtroom; Judge Parnham, prosecutor Murray, defense attorneys Eddins and Kerrigan, nine women and five men of the jury, and Michael Griffin.

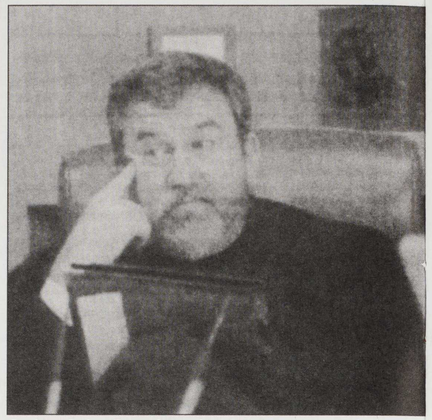
Griffin's entrance is quiet and goes nearly unobserved. He is noticably thinner than old newsroom file photos. For most of the trial his eyes will be downcast or turned to the witness stand, but now in this first moment his eyes lock onto a woman in the second row of spectators. He smiles in a fleeting manner, the expression moving softly over his face, there and then gone. It is the only time he smiles throughout 13 grueling days. Whoever she is, Michael Griffin is encouraged to see that she has come.

Before opening statements there is a motion put forward by Murray, the prosecutor, to limit evidence that the defense might be inclined to present. To satisfy the court that Griffin's team is not entitled to show the jury films and literature about abortion, he cites previous case-law. Griffin saw graphic abortion films for the first time approximately 60 days before David Gunn was shot. To delay 60 days before acting out against this serial baby-killer disqualifies a "heat of passion" defense, he argues.

"This is a murder case," he argues. "It is not a forum for the abortion issue." In his estimation the tapes are "highly prejudicial" and "extremely inflammatory."

It is the very reason why the defense should demand their inclusion, but Kerrigan responds with little zeal that his client is entitled to present the evidence in question. It is an effort so weak that there is the sense that Judge Parnham will indeed limit the evidence in favor of the prosecution. But, for reasons that are not clear, Parnham rules against Murray's motion. On opening day it appears that the jury will be allowed to watch film footage that might be said to have motivated Griffin to stop David Gunn from killing any more.

Judge Parnham motions for the jury to be brought in. They have been lined up and waiting in a room where they will frequently be closeted as private matters are resolved outside their presence. Now seated in the jury box he peers at the panel over granny-style glasses. In a strident manner that reflects no undue emphasis, he recites instructions to them.



Judge John Parnham listens as potential jurors are being interviewed.

They are not to discuss the case among themselves. They are sequestered for the length of the trial and may not engage in conversation with anyone about anything that might have been in the media. They are to examine only the facts and must disregard personal statements posed to them by either the prosecution or defense attorneys.

Parnham establishes his credibility with spectators on all sides of the abortion battle by coming across as even-handed. At no time does he give the appearance that he is trying to manipulate the jury.

Murray is a prosecutor with substantial experience under his belt. He has tried over twenty murder cases in the quiet Pensacola retirement community, including three where he was hampered by the lack of a body to prove that the crime had been committed. He prevailed in each case. He is also a former police officer; twelve years in uniform, with hands-on knowledge about how an investigation into a crime scene is to be conducted. He is organized and methodical, moving the jury through an outline of how his case will be presented and proven.

Prosecutor James Murray.

There is no inflammatory rhetoric; no courtroom theatrics. His case appears ironclad; Michael Griffin fired the offending bullets into the body of David Gunn. All that he refuses to recognize is that David Gunn was about to begin a ritual of murder that he had performed some 40,000 times before.

David Gunn was a murderer in the Biblical sense of the word. It is incidental to Murray's case now though. His jury has been carefully picked. It could be said that he won over Michael Griffin's defense when Christian morality was selected out of the jury pool.

It is on this first day that the court assembles as one that we see Michael Griffin's greatest liability. It is not the accumulated testimony of prosecution witnesses or photos of the site where Gunn was finally stopped from killing babies. It is the combined talents and lack of integrity of his defense team.

Kerrigan steps to center stage for opening statements. He is a personal injury attorney with relatively little experience in a trial of this kind.

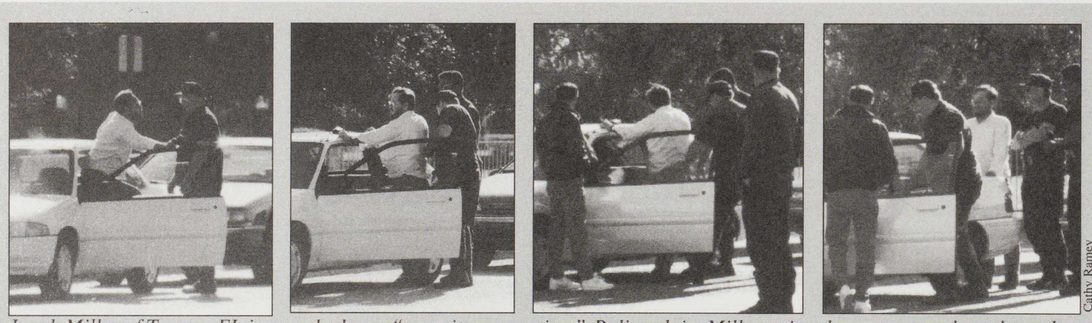
Despite overwhelming evidence to the contrary, the circus act of Kerrigan and Eddins will try to juggle a strange bi-furcated defense. Simply put, it is that Michael Griffin did not fire the bullets that brought down a baby-killer. Their first goal is to attempt to cast a shadow of doubt in this area. When they fail to juggle such a weak defense, their plan is to suggest that, 'if you think he pulled the trigger, maybe we can sell you on the idea that he was brainwashed.'

It is a defense so flawed that first year law students and seasoned criminal lawyers are left scratching their skulls in wonder. In the end it is destined to arouse more sympathy for the state's attorney whose witnesses are brow-beaten in a vain effort to impeach their testimony. With an accumulation of evidence and testimony against him, there is the growing desire to lunge forward and shout for Griffin to take the stand and *just tell the truth.*

Testimony which includes dozens of exhibits and numerous witnesses runs at an amazingly brisk pace throughout the trial. In fact, it took longer to evaluate the credibility of the fourteen empaneled on the jury than it does to build a case against Griffin.

There are employees from Northwest Florida Home-Care who observed Griffin as he waited for Gunn to arrive. One of them watched several minutes later when he took off toward the Cordova Square abortuary's back door at a run. They are the same employees who hurried out the door and over to Gunn after three shots were fired. A nurse rolled him over onto his back and onto the gun left laying beside him. They were working to "keep his airway open."

There is Della Lindsey who says that she watched the shooting and shouted to her companion, "He's shooting someone." Several minutes later, on her way to notify police that she had witnessed the shooting, she



Cathy Ramey

Jacob Miller of Tampa, FL is searched as a "security precaution." Police claim Miller pointed a camera at them through the "dark tinted windows" of a rental car. They illegally searched the vehicle.

Security tight; pro-lifers harassed

Pensacola, FL—Police in Pensacola are harrassing anti-abortion demonstrators and spectators for the seventh day since jury selection began.

On the final day of jury selection police approached a rental car and ordered the occupant, Jacob Miller, out. Miller had been arrested by police six days earlier on a trespass warrant based upon a 1989 incident in Tampa several hundred miles away. He was released in Tampa on $100 bail pending a March 8 hearing.

Miller indicated that he had returned to Pensacola to pick up personal belongings left as a result of his arrest. He was also in town to watch the Griffin trial proceed.

During this latest incident, Miller was surrounded by up to eight SWAT team members who searched his person and demanded identification. Police then searched the inside of the vehicle without producing a search warrant. After several minutes Miller was released.

One other pro-life spectator, Andrew Cabot, was blocked as he walked toward the car. A police vehicle pulled up onto the sidewalk stopping only inches from him. He was ordered not to go near the car where Miller was being searched and detained.

The rental car had been obtained by a reporter for *Life Advocate* magazine who was on assignment to cover the Griffin trial. After verifying rental information all parties were allowed to leave. The reporter was told not to take photos of the rooftop snipers or any of the "security precautions" in place around the courthouse.

Court Administrator Wayne Peacock indicated in a phone interview that despite tight security, the court had received no phone calls or letters that might be considered threatening. On the following day, police were reported in a local paper as having stated the car was searched because of its "dark tinted windows" and because the occupant was seen pointing an instamatic camera at a passing patrol car. ■

Juries have the power!

by Paul deParrie

"The jury has the power to bring in a verdict in the teeth of both law and facts."
—U.S. Supreme Court Justice Oliver Wendell Holmes
(Horning v District of Columbia, 254 US 135, 138)

Jurors are more powerful than any government official.

If they think a law is wrong — or being wrongly applied — they can find any accused person "not guilty" even if all the laws and facts show the accused to be guilty.

The federal courts have said in *US v. Dougherty* (473 F2d 1113) that this power is "unreviewable and unreversable."

In other words, jurors cannot be "punished" for bringing in the "wrong" verdict. This power is called "jury nullification."

In most states, if even one juror refuses to convict, it "hangs" the jury and a mistrial results.

This power was bought at a great price by English jurors who saved young William Penn from a life of imprisonment by finding him not guilty for preaching without a license.

The judge threatened the jurors but they stood by their rights under Magna Carta.

These jurors were jailed until the judge's order was later overturned on appeal.

William Penn went on to found Pennsylvania — and the power of jury nullification was permanently established in both English and American law.

Juries later used this power to free those accused of helping slaves escape before the Civil War.

John Jay, the first Chief Justice of the U.S. Supreme Court, said, "The jury has a right to judge both the law as well as the fact in controversy."

The famous law scholar Dean Roscoe Pound said, "Jury lawlessness (nullification) is the great corrective of the law in its actual administration."

"The jury," said Samuel Chase, a signer of the Declaration of Independence and, later, a U.S. Supreme Court justice, "has the right to determine both the law and the facts."

So, a juror — though a judge may tell him these things are not so and that he must "follow the court's instruction on the law" — has no legal obligation to listen to the judge if a guilty verdict would violate the juror's conscience.

The juror's vote is "unreviewable" — he doesn't have to explain his verdict.

Prosecutors and the courts have always tried to circumvent the power of the jury. In the past, it was by jailing jurors. Today it is by planting a compliant juror in the midst of the jury (government employees are particularly susceptible) to harass, sway, cajole, and hurry the others on the jury into a "correct" verdict.

One of the most important reasons for juries (including grand Juries) is for ordinary people to act as a safeguard against abusive government. By exercising the power of jury nullification, people can "send a message" to government that their laws or their particular use of those laws are wrong. ■