

# 3 Members Blast Marin Grand Jury

By Jim Brewer

One member of the Marin County Grand Jury resigned yesterday in protest over murder and conspiracy indictments voted against six San Quentin inmates and fugitive attorney Stephen Bingham.

Two other grand jury members angrily denounced the indictments.

"I was disgusted," snapped 23-year-old Richard Beban, after he and the two other grand jury members, Jerry Hawes, 37, and James Kilty, 43, walked out on deliberations early yesterday morning, before a vote on the indictments was taken.

Hawes, of San Rafael, wrote a letter of resignation yesterday to Jury Foreman Milen Dempster and Presiding Superior Court Judge Samuel Gardiner. Beban said he was considering similar action.

The indictments were returned by a 12-to-2 vote.

Twelve votes are the minimum needed to vote on indictment. Two jurors of the total 19 were absent.

"The indictments of the last few days have reinforced

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my decision to offer my resignation," Hawes wrote to Dempster.

He criticized the indictment process, saying it was "vulnerable when the members of a jury . . . are unwilling to surrender their independence to the public prosecutor.

"The unwillingness of this jury to seek impartial legal advice during indicting sessions makes impossible a fair and just procedure

which can mete out genuine justice," Hawes concluded.

## INDICTMENTS

The indictments were returned after 20 hours of cross examination and deliberation in two days. They named Soledad Brother Fleeta Drumgo as one of the six inmates, but did not name the other surviving Soledad Brother, John Clutchette.

Stephen Bingham, the 29-year-old attorney who disappeared immediately after the bloody alleged escape at-

tempt August 21, was accused of smuggling a 9-millimeter automatic pistol to Soledad Brother George Jackson.

The six inmates were accused of joining a conspiracy between Bingham and Jackson, and all six also were specifically accused of direct assault or murder in connection with the deaths of three prison correctional officers and two inmates and the wounding of three other officers.

In addition to the 26-year-old Drumgo, the inmates indicted were Hugo Pinell, 27; John Larry Spain, 22; Louis N. Talamantes, 28; David Johnson, 24; and Willie Tate, 27.

## EXAMINATION

The jury's action came after what The Chronicle learned was stiff critical cross examination of 25 witnesses. Most of them were correctional officers or district attorney's investigators. No inmates were called.

"It was not justice, but vengeance," said Beban, a College of Marin campus leader.

He said security at the Marin County Courthouse has created a "paranoid frame of mind in the community." The grand jury, he said, reflected the "racism, paranoia and economic bias" of Marin county.

"We're responsible for what goes on in that room," the young grand jury member said. "I feel we have responsibility for what went on and I don't think we have the ability to deal with questions of crime inside San Quentin."

## TESTIMONY

Key testimony was offered the jury by correctional officers Charles C. Breckenridge, Urbano Rubiaco Jr., and Kenneth M. McCray, all of whom were held hostage and wounded in the August 21 incident.

The indictments revealed only a few new details in the case. These dealt with movements inside the prison on the day of the alleged breakout.

The indictments claimed Bingham smuggled the gun and two clips or ammunition to George Jackson in a con-

spiracy to plot an escape by force and violence, possess firearms inside a state prison and kidnap correctional officers.

Jackson, the indictment said, concealed the gun in an Afro wig and when he was returned to the adjustment center took Officer Rubiaco, 24, hostage when he spotted the weapon. Rubiaco was then ordered to open all the cells on the first floor of the adjustment center, freeing 26 inmates.

## PROCEDURE

According to the indictments, "members of the conspiracy" tied the hands and feet of Officers Frank P. DeLeon, 44, and Paul Krasenes, 52, and Sergeant Kenneth McCray, 39.

Jackson, the indictment said, then turned Officer Breckenridge, 21, over to Pinell who took him to Jackson's cell. Pinell is accused along with inmates Tate and Johnson of assaulting Breckenridge.

Inmate Spain then handcuffed Officer Rubiaco and took him to Jackson's cell. Spain and Pinell, both serving sentences up to life and thus facing death penalties for assault in prison, are accused of assaulting Officer Rubiaco.

## DEATHS

The indictment said Spain and Jackson seized Sergeant Jere Graham as he walked into the adjustment center, and that Jackson shot and killed Graham with a bullet in the back of his head.

Officers DeLeon and Krasenes and inmates John Lynn, 29, and Ronald L. Kane, 28, were killed by "members of the conspiracy" the indictment said.

A separate count, however, charges Talamantes with assaulting Officer DeLeon and Drumgo with assaulting Officer Krasenes.

Drumgo, who with Clutchettes, still faces trial for the 1970 murder of a Soledad prison correctional officer, was sentenced to prison for a Los Angeles burglary.