

*Set by Mr. Schall & Mr. Kessel
of New Jersey in their report
with us on 4/28/59.*

SUMMARY AND EXCERPTS FROM
PASSAIC COUNTY GRAND JURY PRESENTMENT OF JANUARY 1959

A Grand Jury met at Paterson, New Jersey, during December, 1958, to inquire into 3 deaths and an injury to children from lead poisoning. In each instance it was found by the Grand Jury that the paint on the interior and exterior walls was old and flaky and a mere touch of the hand was sufficient to cause chips and flakes of the paint to fall to the floor or the ground. In the course of its investigation the Grand Jury decided to explore the causes of lead poisoning, including paints, and sought expert advice for its enlightenment. Through the good offices of the Lead Industries Association, and the National Paint, Varnish and Lacquer Association, Dr. Leonard Goldwater agreed to appear before the Grand Jury as a toxicologist to discuss causes, treatment and effects of lead poisoning. In its presentment the Grand Jury paid the following tribute to Dr. Goldwater:

"Dr. Leonard Goldwater, M.D., is the recipient of a Doctor of Science Degree and a Public Health Degree in graduate studies and is a specialist in the field of industrial toxicology for twenty-five years and presently is Professor of Occupational Medicine at Columbia University, College of Physicians and Surgeons. He is also a consultant of the New York State Department of Labor in the Division of Industrial Hygiene. This witness appeared voluntarily at the request of Prosecutor John G. Thevos. Dr. Goldwater's testimony was of immeasurable value and the time devoted by him to this Grand Jury, away from his own busy schedules and at no expense to the County of Passaic was a public service in the best and highest tradition."

The Grand Jury designated the death cases as Cases No. 1, 2 and 3, and the accident as Case No. 4. Pertinent excerpts from the presentment follow:

"This Grand Jury, in analyzing the testimony of the expert witnesses, is convinced that lead poisoning can be caused by new as well as old paint. The age of the paint does not increase its toxicity when eaten. A freshly painted window sill or stair railing or any other object which is accessible to children, whether on the inside or the outside of the home may be dangerous if the paint contains lead to an excess of 1%. Most outside paint contains lead far in excess of this requirement. It is, therefore, hazardous and extremely unsafe to use outside paint in painting anything in the interior of the home.

"To strongly emphasize this point, this Grand Jury recapitulates the chemical analysis above:

The paint from the window sill in Case No. 1 contained lead in an amount of 6.15%.

The paint in the exterior flakings in Case No. 3 contained lead in an amount of 5.28%.

The paint in the interior walls of the house in Case No. 4 contained lead in the amount of 9.4%.

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"In addition to the danger to children inherent in lead-based paint on interior and exterior walls, the expert testimony showed that:

- (1) old plumbing consisting of lead water pipes in house could cause lead poisoning by the contamination of drinking water. Old lead pipes are usually found in old buildings.
- (2) lead-based paint containing lead to an excess of 1% used on children's furniture and toys by home painters is wrong and can be harmful. Outdoor paint should never be used to paint toys, furniture and interior walls and ceilings.
- (3) the burning of old automobile battery casings for heat in fireplaces or stoves may cause lead poisoning in the entire family by the breathing of the fumes in this process."

The Grand Jury summarized what has been done and recommended what should be done to reduce lead poisoning in children in the following words:

"Prosecutor Thevos has consulted with Dr. John H. Foulger of Wilmington, Delaware, Chairman of the Toxic Materials Committee of the National Paint, Varnish and Lacquer Association and Joseph F. Battley of Washington, D.C., President of this Association. Mr. Manfred Bowditch of New York City representing the Lead Industries Association also was consulted by the Prosecutor. The Grand Jury wishes to express its thanks to these individuals and associations for their cooperation.

"These associations have actively promoted precautionary labeling by the paint industry since September, 1954, and were participants on a sub-committee of the American Standards Association which devised specifications for coatings deemed suitable from a health standpoint to paint children's toys, furniture and interior surfaces. These associations have cooperated with the U.S. Public Health Service and other federal agencies in the printing and distribution of pamphlets on the subject as part of a campaign to instruct the public in the use of paint in an attempt to prevent lead poisoning in the home. The Prosecutor has received 100 copies of these pamphlets and the Grand Jury concurs in the suggestion that these pamphlets be distributed to County and City health agencies in Passaic County, the Passaic County Medical Society, the hospitals in Passaic County, the housing authorities in the municipalities of Passaic County, and the Mayors of all municipalities in Passaic County for eventual distribution to the respective local agencies having jurisdiction of building and sanitary codes.

"ALL MUNICIPALITIES IN PASSAIC COUNTY
SHOULD AMEND HEALTH AND BUILDING CODES
TO PROVIDE INSPECTION AND ENFORCEMENT

"The Grand Jury will consider in the succeeding sections of this presentment what has been done and what should be done to reduce lead poisoning.

"In this connection, the Grand Jury recommends the adoption of amendments to building and health codes in all the municipalities of Passaic County to provide for additional inspection of old dwellings and buildings in slum areas as to paint conditions on interior and exterior surfaces and to set up standards for more effective control of conditions where paint is flaking off the walls of old buildings and in cases where there may be layer upon layer of lead paint used in dwellings. Ordinances should be adopted with penalties to provide for enforcement of the municipal legislation.

"THE AMERICAN STANDARDS ASSOCIATION
HAS ADOPTED A STANDARD
TO MINIMIZE HAZARDS TO CHILDREN

"Action has been taken to minimize home hazards to children which might result in lead poisoning. This was taken by the American Standards Association, Inc., on February 16, 1955. The Association, through defining the composition, safety, quality and other characteristics of lead paint, adopted what is known as 'An American Standard'. The use by manufacturers of paint on their labels of the words 'Conforms to American Standard' is intended as a guide to aid the manufacturer, the consumer and the general public."

A detailed description of Standard Z66.1 followed with a listing of the sponsoring organizations. The presentment summarized the conclusion reached as follows:

"This Grand Jury approves this American Standard but notes that the standard is merely a recommendation to paint and surface coating materials' manufacturers. We are of the firm opinion that this standard should be used as the basis for the adoption of legislation, in this state, preventing the manufacture, distribution and sale of paints and other coating materials that do not comply with this standard. We strongly urge that Governor Robert B. Meyner and the New Jersey Legislature take immediate steps to enact such legislation and that the New Jersey Departments of Health and Labor and Industry be empowered therein to enforce the provisions of this law."

The presentment printed in full the lead paint precautionary labels approved by the NPVLA in 1954, and followed up with this conclusion:

"The Grand Jury is firmly convinced that precautionary labeling of paint products is one of the most effective weapons to alert the public and particularly the parents of infant children to the dangers of lead poisoning. The voluntary method suggested by the National Paint, Varnish and Lacquer Association has been in effect since September 14, 1954, as already indicated. Preceding sections of this Presentment have shown that lead poisoning of little children has not abated in the past four years. It is our opinion that the voluntary method has been tried and has failed to achieve the results anticipated by its sponsors. The testimony of Dr. Leonard Goldwater in this regard was significant. He said:

'I think as far as the labeling of paint is concerned, we have a long way to go.'

This Grand Jury strongly urges that the Governor of New Jersey and the New Jersey Legislature take immediate steps to adopt the necessary and proper legislation to impose the requirement of precautionary labeling upon all paint, varnish and lacquer products manufactured, distributed and sold in the State of New Jersey. The additional precaution should be marked on all outdoor paints, containing lead in excess of 1%, that these paints should be used only for exterior surfaces and not on the inside walls and window sills by the users."

A method of making paint products distasteful to children was suggested by the Grand Jury in the following language:

"PAINT CAN BE MADE DISTASTEFUL
TO YOUNG CHILDREN

"It was the considered judgment of Dr. George W. Sargent, Chief Medical Examiner of Passaic County and Peter V. Tortorici, chemical engineer, that an ingredient could be added to all paints, varnishes and lacquers which would make paint flakes and chips distasteful to children. It appears that paint has a salty taste and appeals primarily to children in the summertime. The witnesses were not in a position to indicate the drug or substance that could be added to paint which would be inexpensive and would make the paint so distasteful as to prevent children from eating or chewing it. Quinine was suggested as being very bitter and that children do not like the taste of quinine. This Grand Jury recommends that the New Jersey Department of Health should conduct a further inquiry into this aspect to the end that legislation may be enacted to include a non-toxic, distasteful ingredient in all paint containing lead which is manufactured, distributed and sold in New Jersey."

The report concluded by printing in full and verbatim excerpts from the NFVLA pamphlet "How to Prevent Lead Poisoning in the Home", summarizing the steps to take when danger signs appear and the 11 "Rules to Remember" to prevent lead poisoning.