

MAR 29 2004

GARY M. BLAIR, EXEC. OFFICER  
By Gary M. Blair  
Deputy Clerk

SUPERIOR COURT OF THE STATE OF CALIFORNIA  
FOR THE COUNTY OF SANTA BARBARA

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In Re The Santa Barbara Criminal Grand Jury

) Case No. : No. 04-002

) **Amended Grand Jury Decorum**  
) **Order [3-29-04]**

The impaneling of a criminal grand jury in Santa Barbara County has created significant media and public interest. This kind of interest presents a significant challenge to the court charged with responsibility for ensuring the integrity of the grand jury process, the fair and equal administration of justice and the dignity of the proceedings. This court is also mindful of the privacy rights of any minor who may be a witness in these proceedings. Contact with or photographs of any minor witness would significantly interfere with those privacy rights. In addition, dissemination of any information disclosed during the grand jury proceedings by witnesses and grand jurors, particularly prior to any indictment, violates the integrity of the grand jury process and threatens to undermine fairness and dignity.

The secrecy of all grand jury proceedings is deeply rooted in our traditions. Since the very beginning of the grand jury system, grand jury proceedings have been closed to the public and records of such proceedings have been kept from the public eye. The California Supreme Court has recognized the importance of maintaining the heritage of grand jury secrecy when there has not been an indictment, in order to preserve the effectiveness of the grand jury process, as well

1 as to protect witnesses against the adverse consequences, including damage to  
2 reputation, of disclosing their testimony.

3 In Branzburg v. Hayes (1972) 408 U.S. 665, the court stated: It is clear that  
4 the First Amendment does not invalidate every incidental burdening of the press  
5 that may result from the enforcement of civil or criminal statutes of general  
6 applicability. Under prior cases, otherwise valid laws serving substantial public  
7 interests may be enforced against the press as against others, despite the possible  
8 burden that may be imposed. The Court has emphasized that, "the publisher of a  
9 newspaper has no special immunity from the application of general laws. He has no  
10 special privilege to invade the rights and liberties of others." [pp. 682-683] [see  
11 also Associated Press v. NLRB (1937) 301 U.S. 103, 132-133.]  
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13 In Branzburg, the court stated, "The prevailing view is that the press is not  
14 free to publish with impunity everything and anything it desires to publish." [p.  
15 683] "It has generally been held that the First Amendment does not guarantee the  
16 press a constitutional right of special access to information not available to the  
17 public generally." [at p. 684] [see Zemel v. Rusk (1965) 381 U.S. 1, 16-17]

18 In People v. Mersino (1965) 237 CA 2d 165, the court said, "There are good  
19 and satisfying reasons why witnesses before a grand jury may be admonished not  
20 to disclose the questions asked them or their answers. One sufficient reason is that  
21 a charge may be under investigation as to a person against whom no indictment is  
22 returned. [p. 269]

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24 As stated in 66 Ops. Cal. Atty. Gen. 85, "The secrecy of grand jury proceedings  
25 would be defeated if witnesses were free to relate their testimony to the press as  
26 they left the grand jury room ... A secrecy admonition to grand jury witnesses is a  
27 reasonable measure to maintain secrecy." [p. 89-90]  
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Except as expressly authorized by this court:

1. No person shall obstruct, impede, attempt to influence or otherwise unlawfully interfere with any grand juror or witness
2. No person shall photograph any grand juror or witness while in the Santa Barbara Superior Courthouse, its courtrooms, jury assembly area or grand jury room, or locations where the grand jury is in session.
3. No person shall communicate with or photograph any minor who is called to testify as a witness before the grand jury.
4. No person shall communicate with any witness or grand juror concerning or relating to any information that was disclosed to them while in the grand jury room.
5. No grand juror may disclose anything concerning what occurred in the grand jury room.
6. No witness who may or has testified before the grand jury may disclose anything concerning what occurred in the grand jury room and shall not make any statement as to the existence or possible existence of any document, exhibit, photograph, the identity of any prospective witness(es) or disclose any other evidence or testimony given, until an indictment is handed down and a transcript is prepared and made public. Notwithstanding this, as to any person subpoenaed or expected to testify in the underlying trial, this order will remain in effect.

Anyone in violation of this court order may be subject to contempt of court. Any person found guilty of contempt of court is guilty of a misdemeanor.

Dated this 29<sup>th</sup> day of March 2004

  
Clifford R. Anderson III  
Presiding Judge