

**IN THE COURT OF COMMON PLEAS
CUYAHOGA COUNTY, OHIO**

)	
)	
)	CASE NO. 03 SD 075617
)	
In re Grand Jury Investigation)	
)	OPINION AND
)	JUDGMENT ENTRY
)	
)	
)	

Brian J. Corrigan, JUDGE:

{¶1} This matter is before the Court on the Petitions of William D. Mason, Prosecuting Attorney for Cuyahoga County (hereinafter “CCPO”) and New World Communications of Ohio, Inc., d.b.a. WJW-FOX 8, (hereinafter “FOX 8”) seeking disclosure of materials presented to a grand jury supervised by this Court. Numerous parties have intervened in this matter, including the Catholic Diocese of Cleveland.¹ The issues having been fully briefed, this Court finds as follows:

I. FACTS

{¶2} In April of 2002, the Cuyahoga County Prosecutor’s Office (“CCPO”) initiated a criminal investigation into allegations of sexual abuse of children within the Catholic Diocese of Cleveland (“Diocese”). The CCPO identified more than 1,000 possible victims of sexual abuse as well as 496 possible offenders. According to the CCPO, 143 of the 496 possible offenders are priests, 64 of whom still reside in the Greater Cleveland area. See, Merit Brief of FOX 8 Ex.B (Affidavit of Bill Sheil).

¹ Parties include “Unnamed Intervenors”, “Numerous Parishes”, Rev. Joseph J. Seminatore, Jr., Father James Viall, Society of the Precious Blood, “John Does” and Catholic Charities Parmadale and two amicus curiae—the Survivor’s Network of those Abused by Priests (SNAP) and Donald Kodger on behalf of Suzan Kodger.

{¶3} More than 50,000 documents from various sources were subpoenaed during the investigation. These documents, and any other information received about possible offenders, were compiled and placed in individual spiral binders—one binder for each of the 496 potential offenders. The spiral binders prepared by the CCPO were submitted as evidence to a grand jury supervised by this Court. The grand jury indicted 11 out of the 496 potential offenders. The CCPO concedes that several more indictments could have been obtained but for the expiration of the applicable statute of limitations, double jeopardy, sufficiency of the evidence, and death. See, CCPO’s Petition ¶10.

{¶4} On February 24, 2003, in response to numerous requests to inspect the records obtained during its investigation, the CCPO filed a “Petition for Declaration as to Status of Grand Jury Proceedings, Crim. R. 6(E).” On March 28, 2003 FOX 8 filed its own “Petition for Declaration as to Release of Certain Grand Jury Materials.” The CCPO seeks, not disclosure, but permission to exercise discretion to disclose matters presented to the grand jury that are otherwise not prohibited from disclosure. See, Prosecutor’s Merit Brief at 5, 6. FOX 8, on the other hand, seeks disclosure of the identities of all suspects not indicted because of the expiration of the statute of limitations, as well as redacted public records that were submitted to the grand jury. See, Merit Brief of FOX 8 at 9.

{¶5} Both Petitioners argue that the present case involves exceptional circumstances that provide compelling grounds for disclosing materials presented to the grand jury. This Court, however, must first ascertain whether the authority exists to consider the Petitioners’ requests in light of these exceptional circumstances. If such authority exists, then the Court must balance Petitioners’ compelling interests with the deeply rooted tradition of the secrecy of grand jury

proceedings.² An understanding of the roots of the grand jury and its concomitant tradition of secret proceedings is vital in order to undertake this analysis.

II. EVOLUTION OF THE GRAND JURY

{¶6} The grand jury is one of the oldest traditions in our criminal justice system. The modern day grand jury can be traced back to twelfth century England and King Henry II. See, Susan W. Brenner and Gregory G. Lockhart, *Federal Grand Jury: A Guide to Law and Practice* §2.1 (1996). It was created, at least in part, as a political design to usurp jurisdiction from ecclesiastical and baronial courts. See, Paul S. Diamond, *Federal Grand Jury Practice and Procedure* §1.01 (4th ed. 1996). Pursuant to the Assize of Clarendon, accusing juries could grant the king's court exclusive jurisdiction over individuals.³ As a result, all property confiscated in successful prosecutions would go to the king. See, Ric Simmons, *Re-examining The Grand Jury: Is There Room for Democracy in Our Criminal Justice System?* (2002), 82 B.U.L.Rev. 1.

{¶7} The king's interest in the royalties derived from accusations weighed heavily on the juries. Indeed, fines would be levied on the juries for failure to reach certain quotas of accusations. Diamond, *supra*. Jurors, as a result, became frustrated with their roles in bolstering the authority of the crown at the expense of those wrongfully accused. The safeguard of fellow citizens against unfounded accusations from an overreaching Crown became an increasingly important function of the grand jury. Finally, in 1681, a grand jury resisted intense pressure from King Charles II to indict Stephen Colledge and the Earl of Shaftesbury. *Id.* This incident is often cited as the beginning of the grand jury's modern-day role "as a protector of citizens

² The interests of victims and witnesses as well as the identities of those who escaped indictment would be of the utmost importance in conducting such an inquiry.

³ The Assize of Clarendon was a decree issued by King Henry II in 1166. It provided "for a body of twelve men in each county, to be summoned by the Crown, whose function was to report to the King's officials persons" suspected of committing criminal offenses. See, Brenner & Lockhart, *supra*, quoting *In the matter of Russo* (C.D. Cal. 1971), 53 F.R.D. 564, 568.

against arbitrary and oppressive governmental action.” *United States v. Calandra* (1974), 414 U.S. 338, 348.

{¶8} The Framers of both our Federal and State Constitutions adopted the grand jury process. See, the Fifth Amendment to the United States Constitution; Section 10 Article I, Ohio Constitution. States, however, are not required to initiate prosecutions by means of an indictment returned by a grand jury. See, *Hurtado v. California* (1884), 110 U.S. 516, 4 S.Ct. 292; *State v. Fulton* (1991), 57 Ohio St.3d 120, 566 N.E.2d 1195. In Ohio, a felony punishable “by death or life imprisonment shall be prosecuted by indictment.” Crim. R. 7(A). All other felonies may be prosecuted by way of information provided the individual has waived his or her right to indictment in writing and in open court. *Id.*, R.C. 2941. If there is no waiver, prosecution must be instituted by an indictment from a grand jury duly empanelled and sworn pursuant to R.C. 2939 and Crim. R. 6.

{¶9} The grand jury functions as “both a sword and a shield.” *In re Grand Jury* (D. Md. 1970), 315 F.Supp. 662, 671. First, the grand jury is responsible for determining if probable cause exists to believe a crime has been committed. *Branzburg v. Hayes* (1972), 408 U.S. 665, 92 S.Ct. 2646. Second, it serves as a buffer between government and the people designed to protect citizens from “overzealous and vindictive prosecutors.” *U.S. v. Sigma Internatl.* (11th Cir. 1999), 196 F.3d 1314, 1320, vacated on other grounds by *U.S. v. Sigma Internatl.* (11th Cir. 2001), 251 F.3d 1358 and *U.S. v. Suarez* (6th Cir. 2001), 263 F.3d 468, 481.

III. THE RULE OF SECRECY OF GRAND JURY PROCEEDINGS

{¶10} The proper functioning of the grand jury system depends upon the secrecy of its proceedings. *Douglas Oil Co. v. Petrol Stops Northwest* (1979), 441 U.S. 211, 99 S.Ct. 1667. In fact, the “indispensable secrecy of grand jury proceedings” is “as important for the protection

of the innocent as for the pursuit of the guilty.” *United States v. Johnson* (1943), 319 U.S. 503, 513, 63 S.Ct. 1233. Safeguarding grand jury secrecy encourages witnesses to come forward, prevents flight by potential defendants, ensures freedom of deliberation, encourages free and honest testimony, and protects innocent targets from public knowledge that they were under investigation. See, *U.S. v. Sells Eng., Inc.* (1983), 463 U.S. 418, 424-25; *Douglas Oil*, 441 U.S. at 211. The rule “continues even after the grand jury investigation is concluded in order to protect witnesses from retaliation, to prevent tampering with witnesses who may be called to testify at a resulting trial, and to prevent publication of unwarranted charges against an innocent target.” *In re Special Grand Jury Investigation Concerning Organic Technologies* (1999), 84 Ohio St.3d 304, 307, 703 N.E.2d 790. For these reasons, courts have “jealously guarded” the secrecy of grand jury proceedings. *State v. Tenbrook* (C.P. 1987), 34 Ohio Misc.2d 14, 15, 517 N.E.2d 1046 (citing *State v. Rhoads* (1910), 81 Ohio St.397, 423, 91 N.E.186.)

{¶11} The rule of secrecy of grand jury proceedings has been codified by our legislature. See, e.g., R.C. 2939.07 (requiring a court to emphasize the grand juror’s “obligation of secrecy”) and R.C. 2939.11 (official reporters shall not “disclose any testimony taken or heard except to the grand jury, prosecuting attorney, or attorney general, unless called upon by the court to make disclosures.”) Crim.R. 6(E), promulgated by the Supreme Court of Ohio pursuant to its Constitutional authority, places further emphasis on the rule of grand jury secrecy. It states, in pertinent part:

Deliberations of the grand jury and the vote of any grand juror shall not be disclosed. Disclosure of other matters occurring before the grand jury may be made to the prosecuting attorney for use in the performance of his duties. A grand juror, ***prosecuting attorney***, interpreter, stenographer, operator of a recording device, or typist who transcribes recorded testimony, ***may disclose matters occurring before the grand jury***, other than the deliberations of a grand jury or the vote of a grand juror, but may disclose such matters ***only when so directed by the court preliminary to or in connection with a judicial proceeding, or when permitted by the court at the request of the defendant***

upon a showing that grounds may exist for a motion to dismiss the indictment because of matters occurring before the grand jury. (Emphasis added.)

Thus, pursuant to Crim.R. 6(E), there are only two situations in which a supervisory court can consider disclosure. In the first instance, disclosure must be sought in connection with a judicial proceeding to avoid an injustice in that proceeding. Second, which is inapplicable here, a supervisory court may consider disclosure at the request of a criminal defendant that demonstrates adequate grounds for a motion to dismiss an indictment.

IV. EXCEPTIONS TO NONDISCLOSURE

{¶12} A court supervising a grand jury may authorize disclosure, where justice so requires, in connection with criminal and civil actions. *Petition for Disclosure of Evidence Presented to Franklin County Grand Juries in 1970*, (1980) 63 Ohio St.2d 212, 407 N.E.2d 513. Procedurally, a petition to the court that supervised the grand jury is the proper means of obtaining release of grand jury materials. *Id.* When presented with a petition for disclosure of grand jury materials, the supervising court must determine whether the petitioner has demonstrated a particularized need for the materials. *State v. Greer* (1981), 66 Ohio St.2d 139, 420 N.E.2d 982. A particularized need for disclosure exists when, considering all the surrounding facts and circumstances, it is probable that failure to disclose will deprive petitioner of a fair adjudication of the allegations at issue. *Id.*, paragraph 3 of the syllabus. Whether a particularized need exists is a matter within the sound discretion of the trial court. *State v. Grewell* (1989), 45 Ohio St.3d 4, 9, 543 N.E.2d 93.

{¶13} One example of a particularized need for disclosure of grand jury materials can be found in *Greer*. In *Greer*, a criminal defendant sought disclosure of grand jury transcripts in order to impeach one of the State's witnesses. After conducting an inspection of the transcripts, in the absence of counsel, the trial court permitted use of portions of the transcript for

impeachment purposes. Neither the appellate court nor the Supreme Court took issue with finding a particularized need for the transcripts for impeachment purposes. *Greer*, 66 Ohio St.2d at 146 (noting its agreement with the appellate court’s conclusion that defendant should have been provided the transcripts, albeit for different reasons.) The court held that the inspection conducted by the trial court, however, should have been done in the presence of counsel for defendant and counsel for the state. *Id.*, paragraph four of the syllabus.

{¶14} In *State v. Coley* (2001), 93 Ohio St.3d 253, 754 N.E.2d 1129, on the other hand, the court affirmed the denial of defendant's request for grand jury minutes. Defendant argued that he had a particularized need for the transcripts because a grand jury issued a capital indictment in the place of an earlier, non-capital, indictment for the same offenses. Defendant alleged that the capital indictment was based on improper motives. The court rejected the argument, finding the second indictment was secured as a result of further police investigation and new evidence. *Coley*, 93 Ohio St.3d at 262. The court noted that allegations of impropriety in grand jury proceedings, standing alone, are rarely grounds for finding a particularized need that overcomes the need for grand jury secrecy. See, *Id.*, citing, *State v. Stojetz* (1999), 84 Ohio St.3d 452, 459-60, 705 N.E.2d 329; *State v. Bengé* (1996), 75 Ohio St.3d 136, 145, 661 N.E.2d 1019; *State v. Mack* (1995), 73 Ohio St.3d 502, 508, 653 N.E.2d 329; *State v. Webb* (1994), 70 Ohio St.3d 325, 336-37, 638 N.E.2d 1023; *State v. Davis* (1988), 38 Ohio St.3d 361, 365, 528 N.E.2d 925; *State v. Brown* (1988), 38 Ohio St.3d 305, 308, 528 N.E.2d 523.

V. ANALYSIS

{¶15} Here, it is undisputed that disclosure of the materials presented to this Court’s grand jury is not sought in connection with a judicial proceeding. See, e.g., Prosecutor’s Merit Brief at 12. Moreover, it is undisputed that the materials sought are “matters occurring before

the grand jury” as that language is used in Crim R. 6(E). See, *Id.* at 4; Merit Brief Of Petitioner-Intervenor New World Communications of Ohio, Inc. on Behalf of its Television Station, WJW-FOX 8 at 7.

{¶16} The issues presented for this Court’s determination, then, are: (1) Does the absence of an ancillary judicial proceeding operate as a complete bar to disclosure of matters occurring before the grand jury? In other words, does the trial court that supervised a grand jury have discretion to consider a petition for disclosure in situations not contemplated by Crim. R. 6(E)? (2) If so, do the facts of the instant case support disclosure? Unfortunately, the current state of the law in Ohio prevents this Court from considering the latter issue.

{¶17} There is a multitude of case law in Ohio interpreting Crim. R. 6(E) and its exceptions to nondisclosure. Most, if not all, involve a criminal defendant or civil litigant seeking access to grand jury materials for use in another proceeding. See, e.g., *Coley*, *supra*; *In re Special Grand Jury Investigation Concerning Organic Tech.* (1999), 84 Ohio St.3d 304; *State ex. rel. Collins v. O’Farrell* (1991), 61 Ohio St.3d 142, 573 N.E.2d 113; *Greer*, *supra*; *Tourlakis v. Beverage Distributors, Inc. et al.* (8th Dist. No. 81222), 2002 WL 31875970, 2002-Ohio-7252. This Court can find no authority in Ohio allowing a trial court to consider disclosure in situations not contemplated by Crim. R. 6(E).

{¶18} One court has been confronted with a similar situation. The Honorable Judge Thomas H. Crush of the Hamilton County Court of Common Pleas considered a petition for disclosure of grand jury transcripts filed by the county prosecutor and joined by the local newspaper. See, *In re Grand Jury Investigation* (C.P. 1991), 61 Ohio Misc.2d 583, 580 N.E.2d 868. The prosecutor and newspaper applied for an order to release transcripts from a grand jury that failed to indict county building inspectors suspected of misconduct. The prosecutor sought

release of the transcripts for two reasons. First, the prosecutor argued that the transcripts would assist the board of county commissioners in disciplinary hearings against some of the targets of the investigation. Second, the prosecutor contended that the transcripts would end unfounded criticism of the grand jury and the criminal justice system in general.

{¶19} In denying disclosure of the transcripts, Judge Crush applied the requirements of Crim.R. 6(E) and found that disciplinary hearings before the board of commissioners did not constitute “judicial proceedings” as required by the rule. *Id.* at 594. He also found that the “veil of secrecy surrounding grand jury proceedings is not to be lifted” in order to confirm or deny rumors. *Id.* at 594-95. Judge Crush did not consider disclosure outside the confines of the rule. This could be explained by the tabloid nature of the underlying facts; there were simply no exceptional circumstances to consider. Petitioners in the instant case, however, aver that this Court has *inherent* authority to go beyond the rule given the exceptional circumstances at issue.

{¶20} The Supreme Court of Ohio in *State ex rel Beacon Journal v. Waters* (1993), 67 Ohio St.3d 321, 617 N.E.2d 1110 rejected the “inherent authority” argument put forth by Petitioners. The Court in *Waters* considered a standing order issued by the trial court prohibiting all disclosure of witness identities and a grand jury witness record book. The order was a blanket prohibition that precluded evaluation, on a case-by-case basis, of a petitioner’s particularized need for those materials. The Court held that the trial court’s standing order declaring the materials confidential was subject to the disclosure provisions of Crim. R. 6(E), as well as the decisions in *Petition for Disclosure, Greer* and their progeny. *Waters*, 67 Ohio St.3d at 326-27. In so holding, the Court specifically found that a trial court’s authority to supervise a grand jury is not inherent; it is derived from Crim.R. 6(E) and R.C. 2939.11. *Id.*

{¶21} Although this Court believes that the decision in *Waters* should be limited to such preemptive prohibitions that discard case-by-case consideration, the authority cannot be ignored. This Court is bound by the Supreme Court’s holding in *Waters*. Therefore, this Court holds that a trial court supervising a grand jury lacks the authority to consider requests for disclosure of matters occurring before its grand jury made in situations not contemplated by Crim.R. 6(E). Here, disclosure is not sought preliminary to or in connection with another judicial proceeding. As such, the petitions for disclosure fall outside of the enumerated exceptions of Crim. R. 6(E) and escape consideration by this Court. In light of the Supreme Court’s decision in *Waters*, this Court must deny the petitions.

{¶22} It is worth noting the trend to the contrary in federal courts. Federal district courts do have inherent authority to go beyond the exceptions listed in Rule 6(E) to consider disclosure of matters occurring before the grand jury. See, *U.S. v. Aisenberg* (11th Cir. 2004), 2004 WL 225538 at p.14; *In re Craig* (2nd Cir. 1997), 131 F.3d 99, 103; *In re Grand Jury Proceedings* (4th Cir. 1986), 800 F.2d 1293, 1303; *In re Hastings* (11th Cir. 1984), 735 F.2d 1261, 1267-68; *In re Grand Jury Proceedings, Miller Brewing Co.* (7th Cir. 1982), 687 F.2d 1079, 1088; *In re Biaggi* (2nd Cir. 1973), 478 F.2d 489, 494; *In re American Historical Association* (S.D.N.Y. 1999), 49 F.Supp.2d 274, 284-87; *In re Report and Recommendation of June 5, 1972 Grand Jury* (D.D.C. 1974), 370 F.Supp. 1219, 1229. One court has noted that Fed.R.Crim.P. 6(e)(3) is simply a declaration of a district court’s inherent authority.⁴ *Aisenberg*, 2004 WL at p.14, citing *Pittsburgh Plate Glass Co. v. United States* (1959) 360 U.S. 395, 398-99.

{¶23} A district court’s authority to disclose outside of the enumerated exceptions, however, is extremely narrow and is reserved solely for cases involving exceptional

⁴ But see, Susan W. Brenner and Lori E. Shaw, §9.1 Federal Grand Jury: A Guide to Law and Practice (Supp. 2004), (asserting that “it is exceedingly doubtful that this power actually exists.”)

circumstances. *Id.* This is known as the “special circumstances” exception. District courts are obligated to apply the exceptions enumerated in Fed.R.Crim.P. 6(e) to all “garden variety” petitions for disclosure. *In re Hastings*, 735 F.2d at 1269. Exercises of authority in special circumstances must “adequately safeguard the purposes underlying the grand jury and ... maintain the unique nature and position of the grand jury as an institution in our government.” *In re American Historical Assoc.*, 49 F.Supp.2d at 286-87. Parties seeking disclosure pursuant to the “special circumstances” exception to grand jury secrecy must satisfy a burden greater than the “particularized need” standard. *Id.* at 287 (citing *In re Hastings*, 735 F.2d at 106, note 10).

{¶24} In *American Historical Assoc.*, *supra*, a coalition of historical associations petitioned for the disclosure of special grand jury transcripts. The grand juries had been convened from 1948 to 1950 to investigate allegations of espionage against Alger Hiss. Three prior petitions had been considered.⁵ In finding that the petitioners satisfied their burden to justify disclosure, the court rejected the government's argument challenging its authority to consider the petition. After an extensive discussion on the need to maintain the secrecy of the transcripts, the court found such need was minimal in light of the “substantial and particularized showing of their historical significance.” *In re American Historical Assoc.*, 49 F.Supp.2d at 297.

{¶25} In *Aisenberg*, *supra*, the court held that wholesale disclosure of all grand jury transcripts was an abuse of discretion by the district court. In so holding, the 11th Circuit confirmed that a district court has inherent authority to consider disclosure outside the rule in

⁵ The first request was filed by Hiss and denied as outside the enumerated exceptions of Fed.R.Crim.P 6(e). *Hiss v. Dept. of Justice* (S.D.N.Y. 1977), 441 F.Supp. 69. The second request was made by an associate professor of history at the Univ. of Delaware. In granting the request, the district court found that the historical significance of the case qualified as a “special circumstance” warranting disclosure. *In re May* (S.D.N.Y. 1987), 651 F.Supp. 457. The third request was denied in part by the Second Circuit. Yet again, however, the historical significance of the case was considered a “special circumstance”. *In re Craig* (2nd Cir. 1997), 131 F.3d 99.

"special circumstances." The petitioner in such cases shoulders the burden of demonstrating a compelling and particularized need for disclosure. This burden is met where a petitioner shows that circumstances have created certain difficulties peculiar to petitioner that could be avoided by access to specific grand jury materials. *Id.* at 15. Even still, limited disclosure would be permissible only if such disclosure would not do "disproportionate harm to the salutary purpose of secrecy embodied in the grand jury process." *Id.* citing *U.S. v. Elliot* (11th Cir. 1988), 849 F.2d 554, 558; *U.S. v. Luizzo* (11th Cir. 1984), 739 F.2d 541, 545.

{¶26} The Aisenbergs had requested the transcripts on three separate occasions to support a claim for attorney's fees under the Hyde Amendment.⁶ The transcripts concerned the investigation of the Aisenbergs in connection with an unsolved disappearance of a child. The transcripts were sought to aid the Aisenbergs' civil suit against the government.⁷ In reversing the district court and ordering the grand jury transcripts sealed, the 11th Circuit applied the above principles and found the Aisenbergs failed to meet their burden.

{¶27} Ohio courts "have essentially the same control over grand juries as federal courts have under Fed.R.Crim.P. 6(e)." *Petition for Disclosure*, 63 Ohio St.2d at 216. The Supreme Court of Ohio, moreover, has noted that "the Ohio Rules of Criminal Procedure do not represent an intentional departure from the federal rules." *State v. Grewell* (1989), 45 Ohio St.3d 4, 8, 543 N.E.2d 93. This could explain the substantial similarities between Ohio's Crim. R. 6(E) and its

⁶ The Hyde Amendment provides for an award of attorney's fees and other litigation expenses if the "court finds that the position of the United States was vexatious, frivolous, or in bad faith." *Aisenberg*, 2004 WL at p.3 (citing Pub.L. No.105-119, §617, 111 Stat. 2440, 2519 (1997)).

⁷ Although disclosure in *Aisenberg* was sought in connection with another judicial proceeding, the case is cited as another example of the recognition of a district court's inherent authority over its grand juries as well as a sound approach to disclosure in special circumstances—limited disclosure only upon a showing of a compelling and particularized need that would not undermine the tradition of grand jury secrecy.

federal counterpart.⁸ Indeed, the Supreme Court of Ohio has relied on federal cases construing the federal counterpart to assist in interpreting Ohio's rule. See, e.g., *Waters*, 67 Ohio St.3d at 325; *Greer*, 66 Ohio St.2d at 144-46. In light of the substantial similarities of the Ohio and federal rules, the tradition of Ohio's reliance on federal cases interpreting the federal rule and the narrowly tailored test used by district courts in analogous situations, this Court can find no reason to not join the federal trend. This Court finds the federal approach to be sound and wholly appropriate in these exceptional circumstances. Yet, until Ohio extends a trial court's supervisory authority over its grand jury, this Court is precluded from conducting further inquiry.

VI. JUDGMENT ENTRY

{¶28} IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that the petitions for disclosure before this Court are denied.

Date

Brian J. Corrigan, Judge

⁸ No Staff Notes are available from Ohio's Rules Advisory Committee in connection with Crim.R. 6(E). Federal Rule of Criminal Procedure 6(E)(3)(e) provides, in relevant part:

The court may authorize disclosure--at a time, in a manner, and subject to any other conditions that it directs--of a grand-jury matter:

- (i) preliminarily to or in connection with a judicial proceeding;
- (ii) at the request of a defendant who shows that a ground may exist to dismiss the indictment because of a matter that occurred before the grand jury;
- (iii) at the request of the government if it shows that the matter may disclose a violation of state or Indian tribal criminal law, as long as the disclosure is to an appropriate state, state-subdivision, or Indian tribal official for the purpose of enforcing that law; or
- (iv) at the request of the government if it shows that the matter may disclose a violation of military criminal law under the Uniform Code of Military Justice, as long as the disclosure is to an appropriate military official for the purpose of enforcing that law.

CERTIFICATE OF SERVICE

A copy of the foregoing "**Opinion and Judgment Entry**" was delivered by ordinary mail, this 27th day of **February 2004**, to the following:

Charles E. Hannan, Esq.
The Justice Center - 8th Floor
1200 Ontario Street
Cleveland, Ohio 44113
Assistant Prosecuting Attorney

Michael McMenamin, Esq.
Kenneth Zirm, Esq.
Walter & Haverfield
1300 Terminal Tower
50 Public Square
Cleveland, Ohio 44113
Counsel for New World Communications/WJW Fox 8

Steve Sozio, Esq.
Jack Newman, Esq.
Jones, Day, Reavis & Pogue
North Point
901 Lakeside Avenue
Cleveland, Ohio 44114
Counsel for Catholic Diocese of Cleveland

Michael P. Maloney, Esq.
24461 Detroit Road, Suite 340
Westlake, Ohio 44145
Counsel for Catholic Charities Parmadale

Beth A. Sebaugh, Esq.
Peter A. Holdsworth, Esq.
Bonezzi, Switzer, Murphy & Polito Co., L.P.A.
1400 Leader Building
526 Superior Avenue
Cleveland, Ohio 44114
Counsel for Numerous Parishes that produced documents

William F. Scully, Jr., Esq.
Williams, Sennett & Scully Co., L.P.A.
113 St. Clair Avenue, Suite 430
Cleveland, Ohio 44114

Counsel for previously designated John Doe III and John Doe VII

Nicholas E. Phillips, Esq.
Phillips, Mille & Costabile
7530 Lucerne Drive, Suite 200
Middleburg Heights, Ohio 44130

Counsel for John Doe and Father James A. Viall

Bill McGinty, Esq.
Henry Hilow, Esq.
Kevin Spellacy, Esq.
McGinty, Gibbons, Hilow & Spellacy
614 West Superior Avenue, Suite 1300
Cleveland, Ohio 44113

Counsel for John Doe(s)

Kenneth F. Seminatore, Esq.
The Superior Building, Suite 1715
815 Superior Avenue, N.E.
Cleveland, Ohio 44114

Counsel for Rev. J.J. Seminatore, Jr.

Matthew F. Browarek, Esq.
William Doyle, Esq.
2000 Standard Building
1370 Ontario Street
Cleveland, Ohio 44113

Counsel for John Doe(s) 1-9 (“Unnamed Intervenors”)

Donald Kodger, Esq.
1562 Devonshire Drive
Brunswick, Ohio 44212

Counsel for Amicus Curiae Suzan E. Kodger

Stephen M. McHugh, Esq.
Dennis J. Adkins, Esq.
Mathew D. Stokely, Esq.
Altick & Corwin Co., L.P.A.
1700 One Dayton Centre
One South Main Street
Dayton, Ohio 45402

Counsel for Society of the Precious Blood, Cincinnati Province, Inc.

Gene J. Brockland, Esq.
Herzog, Crebs & McGhee, L.L.P.
515 North 6th Street, Suite 2400
St. Louis, Missouri 63101

Counsel for Amicus Curiae Survivor's Network of those Abused by Priests (SNAP)

Date

Brian J. Corrigan, Judge