

IN THE COURT OF COMMON PLEAS OF LEHIGH COUNTY, PENNSYLVANIA
CRIMINAL DIVISION

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Clerk of Judicial Records
Lehigh County, PA

COMMONWEALTH OF PENNSYLVANIA

No. MD-2924-2025

vs.

ZACHARY BORGHI,

Defendant

ORDER

AND NOW, this 1st day of April, 2026, upon consideration of Media
Intervenors'¹ Motion to Intervene and Unseal, filed January 2, 2026; **IT IS HEREBY
ORDERED** that the Motion to Intervene is **GRANTED** and the Motion to Unseal is
DENIED.²

BY THE COURT:



James T. Anthony, Judge

¹ LehighValleyNews.com, The Morning Call, and lehighvalleylive.com.

² First, the court acknowledges the procedural defect in this matter. Intervenors should have filed a motion seeking only to intervene and, following a grant by the court, then filed a motion to unseal. *In re 2014 Allegheny Cnty. Investigating Grand Jury*, 181 A.3d 349, 351 (Pa. Super. 2018) ("*Allegheny County III*"), aff'd, *In re 2014 Allegheny Cnty. Investigating Grand Jury*, 223 A.3d 214 (Pa. 2019) ("*Allegheny County IV*"). The court finds the defect is harmless. Further, the Commonwealth indicated it would waive any procedural defects. As such, this court has ruled on the merits of the motion to unseal.

Second, this court finds the presentment in this matter shall remain sealed as not all the defendants are "in custody...or released pending trial." 42 Pa.C.S.A. § 4551(b). Further, evidence was presented that threats were made against two confidential informants used in this investigation. Thus, the public interest in secrecy outweighs Intervenors' need for the information. *Douglas Oil Co. of California v. Petrol Stops Nw.*, 441 U.S. 211 (1979).

Finally, the court does not find the cases cited by Intervenor's' to be persuasive as those cases involve documents or proceedings where there is a presumption of openness. *E.g.*, *Commonwealth v. Fenstermaker*, 530 A.2d 414 (Pa. 1987) (newspaper had common-law right of access to arrest warrant affidavits); *Commonwealth v. Upshur*, 924 A.2d 642 (Pa. 2007) (audiotape played at preliminary hearing was "public judicial record or document" to which presumptive right of access applied); *In re M.B.*, 819 A.2d 59 (Pa.Super. 2003) (constitutional presumption of openness applies to juvenile dependency matters); and *Commonwealth v. Buehl*, 462 A.2d 1316 (Pa.Super. 1983) (first amendment right of access applies to pretrial hearings). Conversely, grand jury proceedings have not historically been open to the press and public. *Allegheny County IV*, 223 A.3d 214. "[W]hile the cases discussed above were based upon a presumption of access flowing from the historical tradition and constitutional requirements of open courts and public trials, the opposite is true of grand jury proceedings." *Id.* at 223 (quoting *Allegheny County III*, 181 A.3d at 355-56).