

FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 08 2004

GARY M. BLAIR, Executive Officer
BY *Carrie L. Wagner*
CARRIE L. WAGNER, Deputy Clerk

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

THE PEOPLE OF THE STATE OF
CALIFORNIA,

Plaintiff,

vs.

MICHAEL JACKSON, et al.

Defendant.

Case No.: 1133603

Order for Release of Redacted Documents

[Defendant's Motion Compelling Disclosure
of Informant's Identity or in the Alternative,
Dismissing the Accusatory Pleading]

The redacted form of the Defendant's Motion Compelling Disclosure of Informant's Identity or in the Alternative, Dismissing the Accusatory Pleading attached to this order shall be released and placed in the public file. The court finds that there is more material in the motion that can be released than that contained in the proposed redacted version. The unredacted originals shall be maintained conditionally under seal pending the hearing on October 14, 2004.

DATED: October 8, 2004

Rodney S. Melville

RODNEY S. MELVILLE
Judge of the Superior Court

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16 SUPERIOR COURT OF THE STATE OF CALIFORNIA

17 FOR THE COUNTY OF SANTA BARBARA, SANTA MARIA DIVISION

18 THE PEOPLE OF THE STATE OF
19 CALIFORNIA,

20 Plaintiff,

21 vs.

22 MICHAEL JOE JACKSON

23 Defendant.
24

25) CASE NO. 1133603

26) NOTICE OF MOTION AND MOTION
27) COMPELLING DISCLOSURE OF
28) INFORMANT'S IDENTITY OR, IN THE
ALTERNATIVE, DISMISSING THE
ACCUSATORY PLEADING;
MEMORANDUM OF POINTS AND
AUTHORITIES; DELCARATION OF SUSAN
C. YU IN SUPPORT THEREOF

29) HEARING

30) DATE: OCTOBER 14, 2004

31) TIME: 8:30 A.M.

32) Place: Dept. SM-2

33) FILED UNDER SEAL & BY FAX

34) 1-

35 NOTICE OF MOTION AND MOTION COMPELLING DISCLOSURE OF INFORMANT'S IDENTITY
OR, IN THE ALTERNATIVE, DISMISSING THE ACCUSATORY PLEADING; MEMORANDUM
OF POINTS AND AUTHORITIES; DELCARATION OF SUSAN C. YU IN SUPPORT THEREOF

1 TO THE HONORABLE JUDGE RODNEY S. MELVILLE AND TO THE DISTRICT
2 ATTORNEY OF THE COUNTY OF SANTA BARBARA, TOM SNEDDON, AND DEPUTY
3 DISTRICT ATTORNEYS GERALD FRANKLIN, RON ZONEN AND GORDON
4 AUCHINCLOSS:

5 Please take notice that on October 14, 2004, at 8:30 a.m., or as soon thereafter as the
6 matter may be heard, before the Honorable Rodney S. Melville, defendant Michael Joseph
7 Jackson ("Mr. Jackson") will move and hereby does move the Court to order the
8 prosecution to disclose the true identity of the informants in this case and all pertinent
9 information which might assist the defense to locate them (including their present
10 whereabouts), or dismiss the accusatory pleading ("Motion").

11 This Motion is based on this notice of motion and the accompanying memorandum
12 of points and authorities, the declaration of Susan C. Yu and attached exhibits, the Court's
13 files and records in this action, such other matters as may be considered by way of judicial
14 notice and such further oral or documentary evidence as the Court may permit at the time
15 of the hearing.

16 DATED: October 4, 2004

Respectfully submitted,

17 Thomas A. Mesereau, Jr.
18 Susan C. Yu
19 COLLINS, MESEREAU, REDDOCK & YU

20 Steve Cochran
21 Stacey McGee Knight
22 KATTEN MUCHIN ZAVIS ROSENMAN

23 Robert M. Sanger
24 SANGER & SWYSEN

25 Brian Oxman
26 OXMAN & JAROSCAK

27 By:

28 Susan C. Yu
Attorneys for Mr. MICHAEL J. JACKSON

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 I.

3 INTRODUCTION

4 To date, the defense has received from the prosecution approximately 43 search
5 warrants. The supporting affidavits and/or the probable cause statements for these search
6 warrants, however, have been either (1) not produced at all or (2) produced little by little
7 and/or incompletely (i.e., with missing pages).'

8 Among this pile of "search warrant hodgepodge," so to speak, the defense has been
9 able to identify 10 search warrant probable cause statements referencing confidential
10 informants. As will be discussed more fully below, these confidential informants are
11 cloaked in varying titles, fashioned as follows:

- 12 1. Confidential Reliable Agent (Neverland, ██████████ Miller Search Warrant);
13 2. Confidential Reliable Informant (Search Warrant Nos. 4914, 4946, 5006,
14 5007, 5008 and 5135);
15 3. "Numerous witnesses, who provided information based on their personal
16 knowledge and/or documentation" (Search Warrant No. 4915 and 5135);
17 4. "Information from Various Sources" (Search Warrant 5135)
18 5. Credible and Reliable Sources (Search Warrant No. 4915); and
19 6. Confidential Citizen Informant (Search Warrant Nos. 4953 and 4959).

20
21
22 Discovery is on-going, and the prosecution has yet to produce all of the outstanding
23 affidavits and statements of probable cause, as well as all other search warrants and supporting
24 affidavits and probable cause statements it has not yet produced. Additionally, the Court ordered
25 production of a certified copy of the search warrants, affidavits and returns which have been filed
26 to date. A copy was provided by the Clerk to both parties in open court. Since that time,
27 additional search warrants have apparently been sought and obtained. For instance, the
28 prosecution has sought to seal additional search warrants and related documents and has not
provided any of them in discovery. In this regard, Mr. Jackson respectfully submits that he
reserves the right to renew this motion, as necessarily called for by the production of these
outstanding discovery. Further, the prosecution's failure to produce discovery shall be taken up
with this Court by way of a status report or a motion, separate and apart from the instant motion.

1 Mr. Jackson respectfully submits that the true identities and the present
2 whereabouts of all of these informants must be disclosed for two main reasons.

3 First, these informants are material witnesses. They are material because there is a
4 reasonable possibility that they could give evidence (i.e., by way of testimony or
5 production of documents) that might exonerate Mr. Jackson.

6 Second, nondisclosure of these informants will deprive Mr. Jackson of his
7 constitutional right to due process and a fair trial.

8 For these reasons, this motion should be granted.

9 II.

10 STATEMENT OF FACTS

11 The indictment imagines ten counts against Mr. Jackson: one count of conspiracy to
12 commit false imprisonment, child abduction and extortion (Count 1); four counts of lewd
13 conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to commit a lewd act
14 upon a child (Count 6); and four counts of administering alcohol to a minor to assist in
15 commission of a felony (Counts 7, 8, 9 and 10). (Yu Decl., ¶ 2.)

16 The indictment further imagines a conspiracy among Mr. Jackson, five named but
17 unindicted individuals, and other "uncharged" and "unknown" alleged co-conspirators to
18 commit child abduction, false imprisonment and extortion. Twenty-eight overt acts in
19 furtherance of this imaginary conspiracy are alleged. (Yu Decl., ¶ 3.)

20 Mr. Jackson has pled not guilty to all counts. He vehemently denies the false
21 allegations planted in the indictment and maintains his complete innocence. (Yu Decl., ¶
22 4.)

23 Attached as Exhibit 1 to the Yu Declaration is a true and correct copy of the
24 relevant page (i.e., page 33) of the Neverland Search Warrant probable cause statement,
25 dated November 17, 2003. Page 33 references an informant labeled as "Confidential
26 Reliable Agent."

1 Attached as Exhibit 2 to the Yu Declaration is a true and correct copy of
2 the relevant pages (i.e., pages 4-5) of the Search Warrant No. 4914 Probable Cause
3 Statement, dated February 2, 2004. Page 5 references a "Confidential Reliable Informant."

4 Attached as Exhibit 3 to the Yu Declaration is a true and correct copy of
5 relevant pages (i.e., pages 3 and 6) of the Search Warrant No. 4915 Probable Cause
6 Statement, dated February 2, 2004. Page 3 references confidential informants as
7 "numerous witnesses, who provided information based on their personal knowledge
8 and/or documentation." Page 6 references confidential informants as "credible and
9 reliable sources."

10 Attached as Exhibit 4 to the Yu Declaration is a true and correct copy of
11 the relevant pages (i.e., pages 8 and 9) of the Search Warrant No. 4946 Probable Cause
12 Statement, dated March 2, 2004. Pages 8 and 9 reference a "Confidential Reliable
13 Informant."

14 Attached as Exhibit 5 and Exhibit 6 to the Yu Declaration is a true and correct copy
15 of the relevant page (i.e., page 4) of the same Probable Cause Statement for Search Warrant
16 Nos. 4953 and 4959, dated March 4, 2004. Page 4 references "Confidential Citizen
17 Informant."

18 Attached as Exhibit 7, Exhibit 8 and Exhibit 9 to the Yu Declaration is a true and
19 correct copy of the relevant page (i.e., page 5) of the same Probable Cause Statement for
20 Search Warrant Nos. 5006, 5007 and 5008, dated March 4, 2004. Page 5 references
21 Confidential Reliable Informant.

22 Attached as Exhibit 10 to the Yu Declaration is a true and correct copy of the
23 relevant page (i.e., page 4) of the Search Warrant No. 5135 Probable Cause Statement,
24 dated September 7, 2004. First paragraph of page 4 references "numerous witnesses, who
25 provided information based on their personal knowledge and/or documentation." Second
26 paragraph references "information from various sources." Fourth paragraph references a
27 Confidential Reliable Informant.

1 On July 22, 2004, Mr. Jackson, by and through his counsel, Mr. Mesereau,
2 requested the prosecution to disclose the identities of all informants who qualify as
3 reliable. (Yu Decl., ¶ 12; Exhibit 11 thereto.)

4 On August 12, 2004, Mr. Sneddon sent a reply letter to Mr. Mesereau, stating that
5 there was only one "confidential reliable informant" and that such informant was [REDACTED]
6 [REDACTED] (Yu Decl., ¶ 13; Exhibit 12 thereto.)

7 At his testimony on August 19, 2004 during part 1 of the Penal Code Section 1538.5
8 hearing (i.e., the "Miller" examination), [REDACTED] testified that he was not the
9 confidential informant:

10 [Question by Mr. Mesereau]

11 Q: Had you helped Mr. Robel with any other issues involving this particular case?

12 A: No, sir.

13 Q: Was this the first time you helped any police officer develop information in the
14 case?

15 A: That was the only time.

16 Q: Okay. Have you been serving as a confidential informant in this case?

17 A: No, sir.

18 Q: Has I know [sic] ever told you that you are in fact a confidential informant in
19 this investigation or case?

20 A: No, sir.

21 Q: Okay. Now, did detective Robel call you and said he wants your help in I'd
22 filing where Mr. Miller is located, correct?

23 A: Correct.

24 Q: Did he tell you how to do that?

25 A: No, he just told me the building and just to go that building and see if I could
26 locate his office.

1 (August 19, 2004 Hearing Transcript, 55:7-27 (Livenote Version)).²

2 III.

3 APPLICABLE LAW

4 A. Prosecution's Duty to Disclose.

5 The rules governing the prosecution's duty to disclose the identity of an informant
6 are summarized by the Supreme Court in Twiggs v. Superior Court, 34 Cal.3d 360, 194
7 Cal.Rptr. 152 (1983), as follows:

8 This court has set forth the rule regarding the prosecution's duty to disclose
9 the identity of an informant. "When an informer is a material witness on the
10 issue of guilt, the People must disclose his identity or incur a dismissal.
11 (Roviaro v. United States (1957) 353 U.S. 53 [77 S.Ct. 623, 1 L.Ed.2d 639]
12 [citations]; People v. McShann (1958) 50 Cal.2d 802, 808 [330 P.2d 33]
13 [citations]; see Evid.Code, §§ 1041, 1042.) . . . What must be disclosed is the
14 witness's 'identity'; not merely his name, but all pertinent information
15 which might assist the defense to locate him." Eleazer v. Superior Court, 1
16 Cal.3d 847, 851, 83 Cal.Rptr. 586, 464 P.2d 42 (1970). In so holding, we
17 specifically disapproved decisions stating that the "prosecution automatically
18 fulfills its obligation of disclosure when it reveals all that it knows, despite
19 the inadequacy of such data to locate the informer." (Eleazer v. Superior
20 Court, supra, 1 Cal.3d at pp. 851-852, 83 Cal.Rptr. 586, 464 P.2d 42, fn.
21 omitted.) Rather, we concluded that when "through police tactics or
22 happenstance the informer becomes a material witness, the police should
23 make such inquiries and arrangements as are reasonably necessary to enable
24 the prosecution and defense to locate him." (Id., at p. 852, 83 Cal.Rptr. 586,

25
26 ² The undersigned has not yet obtained the certified transcript of the hearing from August 16
27 through August 20 and August 23, 2004. Thus, it is respectfully requested that the Court take
28 judicial notice of the Livenote version of the transcript of [REDACTED] August 19th testimony.

1 464 P.2d 42, fn. omitted.) Moreover, the duty to disclose arises irrespective
2 of the defendant's ability to obtain the information through his own efforts,
3 because the prosecution knows from the outset whether the informer is a
4 material witness, and the prosecution has greater investigatory resources and
5 superior knowledge of and contacts with the informer. (Eleazer v. Superior
6 Court, supra, 1 Cal.3d at p. 853-854, 83 Cal.Rptr. 586, 464 P.2d 42.)

7 Id., at 34 Cal.3d 365-366, 194 Cal.Rptr. 154-155 (1983)(emphasis added in bold).

8 B. Prima Facie Showing of Materiality.

9 An informant is a material witness if there is a "reasonable possibility that the
10 anonymous informant whose identity is sought could give evidence on the issue of guilt
11 which might result in defendant's exoneration." People v. Garcia, 67 Cal.Rptr.2d 830, 840,
12 64 Cal.Rptr. 110, 117 (1967). The burden of establishing this prima facie showing of
13 materiality rests with the defendant. Id., at 67 Cal.Rptr.2d 839.

14 A defendant need not demonstrate, however, that an informant would give
15 favorable testimony or show what that informant's testimony would be. People v.
16 Tolliver, 53 Cal.App.3d 1036, 1043, 125 Cal.Rptr. 905, 910 (1975). Rather, the accused
17 need only show that the informant was "in a position to perceive '... either the
18 commission or the antecedents of the alleged crime.'" People v. Ingram, 87 Cal.App.3d
19 832, 839, 151 Cal.Rptr. 239, 243 (1978)(quoting from Williams v. Superior Court, 38
20 Cal.App.3d 412, 423, 112 Cal.Rptr. 485, 491 (1974).)

21 The court in Williams analyzed the controlling Supreme Court decisions and
22 concluded:

23 [T]he evidentiary showing required by those decisions is not as to the
24 exculpatory nature of the informer's potential testimony but merely as to the
25 quality of the vantage point from which the informer viewed either the
26 commission or the immediate antecedents of the alleged crime. The noted
27 Supreme Court cases ask in effect, "What was the informer in a position to
28

perceive?" If the evidence shows that the informer had a sufficiently proximate vantage point, those Supreme Court decisions simply speculate concerning the informer's potential testimony and hold that the defendant has demonstrated a reasonable possibility that the informant would give evidence which might result in the defendant's exoneration. Speculation as to such an informer's testimony is consistent with cases which discern a constitutional right in the accused to seek out the informer to inquire what he knows.

Id., at 38 Cal.App.3d 423-424, 112 Cal.Rptr. 491 (emphasis added in bold).

C. Proximate Vantage Point: Circumstances Showing Prima Facie Materiality.

Cases recognize at least four ways to show that an informant had a sufficiently close vantage point or a physical proximity to the crime, such that the informant is a prima facie material witness who could provide exculpatory evidence for the defendant.

First, if the evidence establishes that the informant was a participant in the charged crime, a prima facie showing of materiality has been made. Williams, *supra*, at 38 Cal.App.3d 420 ("Where the evidence indicates that the informer was an actual participant in the crime alleged -- ipso facto it is held he would be a material witness on the issue of guilt and nondisclosure would deprive the defendant of a fair trial.") See also People v Garcia, *supra*, at 67 Cal. 2d 837, fn.7 (quoting People v. Lawrence, 149 Cal.App.2d 435, 450, 308 P.2d 821 (1957)(An informant who has participated in the criminal act "is no longer simply an informer. He is a material witness to the criminal act, in fact, he is similar to a feigned accomplice."))

Second, if the evidence establishes that the informant was an eyewitness to any of the charged crimes, a prima facie showing of materiality has been made. Williams, *supra*, at 38 Cal.App.3d 420 ("Where the evidence indicates that the informer . . . was a nonparticipating eyewitness to that offense, ipso facto it is held he would be a material witness.") Indeed, a nonparticipating eyewitness to the crime himself is a person who it is

1 reasonably possible could give exonerating testimony for a defendant. People v. Lee, 164
2 Cal.App.3d 830, 835-837, 210 Cal.Rptr. 799, 802-803 (1985).

3 Third, if the informant was a non-participant eyewitness to the circumstances
4 immediately preceding the crime or knows facts closely related to the crime, a prima facie
5 case of materiality has been made. Honore v. Superior Court of Alameda County, 70
6 Cal.2d 162, 169, 74 Cal.Rptr. 233, 237 (1969).

7 Fourth, even if the informant has not been a participant in or an eyewitness to the
8 charged crime or to the circumstances immediately preceding it, the informant might still
9 be a material witness if the informant has knowledge of facts relevant to any of the
10 charged crimes. People v. Blouin, 80 Cal.App.3d 269, 145 Cal.Rptr. 701 (1978)

11 D. Defense may rely upon Prosecution's Evidence to Establish a Prima Facie

12 Materiality.

13 In meeting the burden of proof to show prima facie materiality, the defendant "need
14 not necessarily produce evidence at the hearing on the motion to compel disclosure, but
15 may instead rely upon reasonable inferences from the People's evidence." People v.
16 Alvarez, 73 Cal.App.3d 401, 406, 141 Cal.Rptr. 1 (1977); People v. Otte, 214 Cal.App.3d
17 1522, 263 Cal Rptr 393 (1989).

18 E. Effect of Prima Facie Showing of Materiality.

19 Once the defendant has met this minimal showing, disclosure is immediately
20 required unless the prosecution requests an in camera hearing at which the informant is
21 required to testify under oath. People v. Gooch, 139 Cal.App.3d 342, 188 Cal.Rptr. 673
22 (1983).

23 After the hearing, disclosure is required unless the Court concludes that there is no
24 reasonable possibility that nondisclosure could deprive the defendant of a fair trial.
25 People v. Viramontes, 85 Cal.App.3d 585, 590, 149 Cal.Rptr. 607 (1978); People v. Blouin,
26 80 Cal.App.3d 269, 286, 145 Cal.Rptr. 701 (1978); Williams v. Superior Court, 38
27 Cal.App.3d 412, 112 Cal.Rptr. 485 (1974).

1 If the informant is unavailable for the in camera hearing, dismissal is mandated.
2 People v. Allen, 101 Cal.App.3d 285, 291, 161 Cal.Rptr. 568 (1980).

3 IV.

4 LEGAL ARGUMENT

5 A. THIS MOTION SHOULD BE GRANTED BECAUSE THERE IS A REASONABLE
6 POSSIBILITY THAT THE INFORMANTS COULD PROVIDE EVIDENCE WHICH
7 MIGHT EXONERATE MR. JACKSON.

8 1. The Identity of the Informant Referenced in the Neverland Probable Cause
9 Statement Must be Disclosed.

10 Page 33 of the Neverland Probable Cause Statement (Exhibit 1) references a
11 confidential informant, as follows:

12 "A confidential reliable agent was asked to visit the building located at 211
13 South Beverly Boulevard, Beverly Hills. Around 11:00 a.m. on November 14,
14 2003, that individual made contact with a female employee in the reception
15 area of office No. 205, which was the number shown next to Mr. Miller's
16 name on the directory inside the entrance to the building. The receptionist
17 stated that Private Investigator Miller was no longer in that office, but had
18 moved downstairs to office No. 108. The individual proceeded downstairs to
19 Office No. 108 and observed the name "Bradley Miller" on the door. The
20 door was locked."

21 (See Yu Decl., ¶ 5; Exhibit 1 thereto (emphasis added.))

22 The referenced "confidential reliable agent" is significant to the defense, not
23 because he was asked to "visit" Miller's office, but rather because this informant could
24 testify and provide information about: (1) what he knows about Brad Miller [REDACTED]
25 [REDACTED] vis-à-vis
26 Mr. Jackson; (2) how much he knows about Brad Miller vis-à-vis Mr. Jackson; (3) why he
27 "visited" Brad Miller's office; (4) whether the "visit" encompassed his independent

1 investigation of Miller; and (5) Mr. Jackson's innocence and non-involvement in the
2 alleged conspiracy with Brad Miller.

3 What makes this informant or why is he "reliable"? He must be "reliable" because
4 he may very well be a participant, an eyewitness, a non-participant eyewitness and/or a
5 material witness with knowledge of facts relevant to any of the charged crimes.

6 The prosecution, by way of a letter dated August 12, 2004 from Mr. Sneddon,
7 informed the defense that [REDACTED] was the only individual given the description,
8 "confidential reliable informant." (Yu Decl., ¶ 13; Exhibit 12 thereto.) However, at his
9 examination on August 19, 2004, [REDACTED] denied that he was a confidential
10 informant. (See Statement of Facts, *supra*.)

11 The disclosure of the identity of this informant and all pertinent information which
12 might assist the defense to locate him/her (including his present whereabouts) is crucial to
13 the defense because there is a reasonable possibility or speculation that this informant
14 could testify and provide information which could exonerate Mr. Jackson. See Garcia,
15 *supra*, at 67 Cal.2d at 840 ("No one knows what the undisclosed informer, if produced,
16 might testify. He might contradict or persuasively explain away the prosecution's
17 evidence. These cases are dealing with what little showing is necessary to be made by the
18 defendant to be entitled to the identity of the informer. The showing is not as to what he
19 would testify but as to what he might testify. In People v. Hunt, *supra*, at 4 Cal.3d 231,
20 240, it is indicated that the court might 'speculate' that the informer might have
21 information of benefit to the defendant."))

22 2. The Identity of the Informant Referenced in the Search Warrant No. 4914
23 Probable Cause Statement Must be Disclosed.

24 Pages 4-5 of the Search Warrant No. 4914 Probable Cause Statement (Exhibit 2)
25 references a "Confidential Reliable Informant," as follows:

26 In Detective Zelis's affidavit executed on November 17, 2003, Detective Zelis
27 stated he was informed that a response by [REDACTED] to the public

1 outcry aroused by "Living with Michael Jackson" program was videotaped at

2 [REDACTED]
3 California, and that "present at the filming were [REDACTED]

4 [REDACTED], and

5 who asked a lot of questions. The filming was done by [REDACTED]

6 [REDACTED] was in charge of the filming."

7 *****

8 Your Affiant has since learned the identity of [REDACTED]

9 [REDACTED] during the videotaped interview, and has been informed by

10 [REDACTED] and by a telephone conversation between a

11 confidential reliable informant and that individual, tape-recorded by

12 Sheriff's detectives with the consent of the informant, that a typewritten

13 multipage script of questions and answers had been given [REDACTED] to

14 review, and that their responses to questions asked them in the videotaped

15 interview had been rehearsed in advance of the taping."

16 (See Yu Decl., ¶ 6; Exhibit 2 thereto.)

17 The referenced "confidential reliable informant" allegedly corroborated, through the
18 alleged taped telephone conversation with [REDACTED] "Jane Doe and John Doe's

19 alleged statement that "a typewritten multipage script of questions and answers had been

20 given [REDACTED] to review, and that their responses to questions asked them in the

21 videotaped interview had been rehearsed in advance of the taping."

22 The use of the so-called "scripted questions" is also alleged in Overt Act number 13
23 of the Indictment, which allegation, the prosecution imagines, supposedly represents a
24 part of a conspiracy to abduct the Doe children and falsely imprison and extort the Doe
25 family.

26 This informant must be disclosed because he/she may be a participant, an
27 eyewitness, a non-participant eyewitness or a material witness with knowledge of facts

relevant to any of the charged crimes in general, and in the conspiratorial acts in particular. Irrespective of which of these four categories of prima facie material witnesses this informant may fall under, the pertinent fact is that there is a reasonable possibility that this informant could provide testimony or evidence that would exonerate Mr. Jackson.

Indeed, this informant could testify (or provide documentary evidence), among other things, that: (1) he does not know the identity of [REDACTED] during the taped interview at [REDACTED]; (2) the alleged taped telephone call with [REDACTED] in fact, was not someone he knew; (3) he knows nothing about the existence or content of the alleged "multipage script questions and answers"; and (4) he has no information (direct or indirect, personal or through third-party sources) that would show Mr. Jackson had any involvement (direct or indirect) in the alleged script.

3. The Identity of the Informant Referenced in the Search Warrant No. 4915 and Probable Cause Statement Must be Disclosed.

Page 3 of the Search Warrant No. 4915 Probable Cause Statement (Exhibit 3) references confidential informants as "numerous witnesses" with personal knowledge, as follows:

During this investigation, your Affiant and other investigators have contacted numerous witnesses, who provided information based on their personal knowledge and/or documentation. This information has corroborated information derived from the victim in this investigation. Part of that information is that the victim and his immediate family, after appearing in a film broadcast entitled "Living with Michael Jackson" were obliged, through the use of threats, to remain at Neverland Ranch, away from other family members, the public and authorities. The threats included death threats reportedly made towards the victim and his family stemming from Michael

1 Jackson's televised statement in the nationally-broadcast "Living with
2 Michael Jackson" interview wherein Jackson admitted he slept in a bed with
3 the victim. This sequestering of the victim and his family by several of
4 Jackson's entourage included quickly moving the family out of their
5 apartment residence, paying off the rent due on the apartment, putting their
6 belongings in storage, moving the family into seclusion at Neverland Ranch,
7 obtaining passports and visas for the victim and his mother and siblings
8 prior to a planned transport of the family to Brazil, and having them appear
9 in another video to rebut any possible allegations that might be made against
10 Jackson because of the "Living with Michael Jackson" broadcast. These
11 actions were planned by close members of Jackson's entourage and paid for
12 with funds associated with Jackson."

13 *****

14 Page 6 of this Probable Cause Statement (Exhibit 3) also references confidential
15 informants as "credible and reliable sources," as follows:

16 Your affiant obtained background information on [REDACTED] Your
17 Affiant determined from credible and reliable sources that [REDACTED] resides
18 at [REDACTED] California. SBSB
19 investigators drove by this residence and obtained a description of the above
20 location.

21 (See Yu Decl., ¶ 7; Exhibit 3 thereto.)

22 The referenced "numerous witnesses, who provided information based on their
23 personal knowledge and/or documentation" must be disclosed because they allegedly
24 corroborated "information derived from the victim" that "the victim and his immediate
25 family, after appearing in a film broadcast entitled "Living with Michael Jackson" were
26 obliged, through the use of threats, to remain at Neverland Ranch, away from other family
27 members, the public and authorities."

1 These anonymous informants, creatively cloaked as "numerous witnesses," are
2 prima facie material to this case. Blouin, supra, at 80 Cal.App.3d 269, 145 Cal.Rptr. 7
3 (1978). They are material because they allegedly have "personal knowledge" and/or
4 "documentation" concerning the alleged conspiracy to abduct the Doe children and to
5 extort and falsely imprison the Doe family.

6 Indeed, there is a reasonable possibility that these informants could provide
7 evidence (by way of testimony or documentary evidence), to show, among other things,
8 that: (1) the Doe family was never forced to remain at Neverland; (2) no threats of any
9 kind were ever made to the Doe family to force them to remain at Neverland; (3) the Doe
10 family remained at Neverland out of their own volition and thus was free to leave at
11 any time; (4) Mr. Jackson had nothing to do with (directly or indirectly, passively or
12 actively) the alleged conspiratorial acts, to wit, "death threats reportedly made towards
13 the victim and his family," "sequestering of the victim and his family by several of
14 Jackson's entourage," "moving the family out of their apartment residence, paying off the
15 rent due on the apartment, putting their belongings in storage, moving the family into
16 seclusion at Neverland Ranch, obtaining passports and visas for the victim and his mother
17 and siblings prior to a planned transport of the family to Brazil, and having them appear
18 in another video to rebut any possible allegations that might be made against Jackson,"
19 and "planning, and paying for funds associated with these actions."

20 Likewise, the informants referenced on page 6 as "credible and reliable sources"
21 must equally be disclosed because their testimony could exonerate Mr. Jackson. They can
22 testify about: (1) what they know about [REDACTED] (who is [REDACTED]
23 [REDACTED]) vis-à-vis Mr. Jackson; (2) how much they know about [REDACTED]
24 [REDACTED] vis-à-vis Mr. Jackson; (3) what additional information (other than the address of
25 [REDACTED]) they possess about [REDACTED] vis-à-vis Mr. Jackson; and (4) Mr.
26 Jackson's innocence and non-involvement in the alleged conspiracy with [REDACTED], in
27 particular, as well as with other named and unnamed co-conspirators, in general.

1 4. The Identity of the Informant Referenced in the Search Warrant No. 4946

2 Probable Cause Statement Must be Disclosed.

3 Page 8 of the Search Warrant No. 4946 Probable Cause Statement (Exhibit 4)

4 references confidential informant, as follows:

5 "SBSB investigators interviewed a Confidential Reliable Informant (CRI),
6 who provided information pertaining to [REDACTED] moving items from
7 his residence, to an unknown location. Your Affiant believes this
8 information to be "reliable" because the individual has several occasions
9 provided SBSB investigators with information known to investigators to be
10 true and corroborated through other sources, but which investigators did not
11 make known to the informant. The nature of the information provided by
12 the CRI established he/she was closely associated with individuals involved
13 with the "handling" of the [REDACTED] and with [REDACTED] in
14 particular. The CRI is not being compensated, nor being offered leniency in
15 return for providing information. The CRI offered the information to
16 investigators with the intent to insure justice is served. During the
17 interviews with the CRI, he/she detailed that subsequent to SBSB
18 investigators serving the search warrant at Neverland Ranch, [REDACTED]

19 [REDACTED]
20 [REDACTED] further indicated he moved items (the CRI could not
21 provide specific information about the nature of the items) to a location away
22 from his residence. The CRI did not know where [REDACTED] moved the items
23 to. The information provided by the CRI regarding [REDACTED] belief that a
24 search of his residence was eminent, was corroborated through by the
25 statements of [REDACTED]. Your affiant believes the CRI's
26 information is further corroborated by [REDACTED]
27 [REDACTED]

1 [REDACTED]
2 *****
3 The CRI, also told SBSB Investigators that prior to this investigation
4 becoming public knowledge, [REDACTED]

5 [REDACTED]
6 [REDACTED] The CRI described [REDACTED]

7 [REDACTED] The CRI
8 recognized [REDACTED]

9 During the search of [REDACTED] your affiant and the other SBSB
10 investigators did not locate any such [REDACTED] When asked if [REDACTED]

11 [REDACTED], the CRI stated he felt [REDACTED]

12 [REDACTED]. Your affiant believes these [REDACTED] were moved to
13 another location, such as storage unit.

14 *****

15 Based on your affiant's training and experience, I know persons who are
16 involved in the commission of, or attempts to cover-up crimes will
17 oftentimes secrete evidence of the crimes in private storage facilities. This is
18 particularly true of individuals who believe law enforcement will attempt to
19 find and seize the evidence through the service of search warrants at their
20 residences. Furthermore, it is common for individuals who desire to secrete
21 evidence in storage lockers to have an acquaintance open to storage locker
22 account under the acquaintance's name as a further means of preventing law
23 enforcement from finding and seizing the evidence.

24 (See Yu Decl., ¶ 8; Exhibit 4 thereto.)

25 The referenced Confidential Reliable Informant must be disclosed because he is a
26 prima facie participant and percipient witness to the alleged conspiratorial acts. This
27 informant is alleged to have been (1) "closely associated with individuals involved with

1 the "handling" of [REDACTED] family and with [REDACTED] in particular" [REDACTED]
2 (2) witnessed [REDACTED]
3 [REDACTED] (a percipient witness); (3) witnessed "[REDACTED]
4 [REDACTED]
5 [REDACTED] (a percipient witness); and (4) personally [REDACTED]
6 [REDACTED]
7 [REDACTED] (a percipient witness).

8 This informant is significant because he/she could provide evidence that these
9 alleged conspiratorial acts are false and that Mr. Jackson is completely innocent of the
10 false and charging allegations.

11 5. The Identity of the Informant Referenced in the Search Warrant Nos. 4953
12 and 4959 Probable Cause Statement (identical) Must be Disclosed.

13 Both search warrant Nos. 4953 (Exhibit 5) and 4959 (Exhibit 6) have the same
14 probable cause statements. Page 4 references a confidential citizen informant, as follows:

15 SBSD investigators interviewed a Confidential Citizen Informant (CCI#1),
16 who provided information pertaining to [REDACTED] and Michael
17 JACKSON making travel arrangements through a travel agency called Air
18 Apparent, Inc. Your affiant believes the information provided by the CCI#1
19 to be reliable, as the CCI#1 has in the past, provided information to
20 investigators, which at the time was known to be true (corroborated through
21 other sources of information), or which was later corroborated through
22 evidence and/or statements of other individuals. In particular, the CCI#1
23 has provided information to investigators pertaining to various travel
24 arrangements involving Michael JACKSON and [REDACTED].

25 (See Yu Decl., ¶ 9; Exhibit 5 (SW No. 4953) and Exhibit 6 (SW No. 4959).

26 The referenced confidential citizen informant must be disclosed because he/she is a
27 prima facie material eyewitness to (and may even be a participant involving) the allegation

that [REDACTED] and Michael JACKSON [made] travel arrangements through a travel agency called Air Apparent, Inc." He/she allegedly has provided information to investigators pertaining to various "travel arrangements involving Michael JACKSON and [REDACTED]."

This informant is crucial to the defense because he/she could rebut the conspiracy allegations, which do not in any way involve Mr. Jackson

6. The Identity of the Informant Referenced in the Search Warrant Nos. 5006, 5007 and 5008 Probable Cause Statement (identical) Must be Disclosed.

Search Warrant Nos. 5006 (Exhibit 7), 5007 (Exhibit 8) and 5008 (Exhibit 9) have the same probable cause statement. Page 5 references a confidential reliable informant, as follows:

One of the means utilized by the conspirators to isolate the [REDACTED] was the relocation from their apartment in East Los Angeles. This included moving the family to Michael JACKSON's Neverland Valley Ranch, removing and storing the [REDACTED] possessions and [REDACTED]. The [REDACTED] possessions were then withheld from the [REDACTED] and moved to a secret (not disclosed to the family) storage locker, which was rented by Bradley Miller and [REDACTED].

[REDACTED] A confidential reliable informant provided information to SBSO investigators, indicating Bradley Miller was responsible for disbursing the monies used [REDACTED].

[REDACTED] When the [REDACTED] finally recovered their possessions (after retaining the services of a lawyer), they determined [REDACTED].

1 (See Yu Decl., ¶ 10; Exhibit 7 (SW No. 5006), Exhibit 8 (SW No. 5007) and Exhibit 9 (SW
2 No. 5008).

3 The referenced confidential reliable informant is material and thus must be
4 disclosed because he/she could testify that Mr. Jackson had no involvement whatsoever in
5 the [REDACTED]
6 [REDACTED] that the alleged [REDACTED]
7 [REDACTED] do not even exist and that [REDACTED]

8 This informant is crucial to the defense because his/her testimony could exonerate
9 Mr. Jackson, in that he/she could deny the false and charging allegations and provide
10 exculpatory evidence.

11 7. The Identity of the Informants Referenced in the Search Warrant No. 5135
12 Probable Cause Statement Must be Disclosed.

13 Page 4 of the Search Warrant No. 5135 Probable Cause Statement (Exhibit 10)
14 references three different types of confidential informants.

15 First, the second paragraph of page 4 references confidential informants as
16 "numerous witnesses" with personal knowledge, as follows:

17 "During this investigation, your Affiant and other investigators contacted
18 numerous witnesses, who provided information based on their personal
19 knowledge and/or documentation. This information has corroborated
20 information derived from the victim in this investigation. Part of that
21 information is that the victim and his immediate family, after appearing in a
22 film broadcast entitled "Living with Michael Jackson," were obliged through
23 the use of threats, to remain at Neverland Ranch, away from other family
24 members, the public and authorities. The threats included death threats
25 reportedly made by unknown persons toward the victim and his family
26 stemming from Michael Jackson's televised statement in the nationally-

1 broadcast "Living with Michael Jackson" interview in which Jackson
2 admitted he slept in a bed with the victim. This sequestering of the victim
3 and his family by several of Jackson's entourage included quickly moving the
4 family out of their apartment residence, paying off the rent due on the
5 apartment, putting their belongings in storage, moving the family into
6 seclusion at Neverland Ranch, obtaining passports and visas for the victim
7 and his mother and siblings prior to a planned transport of the family to
8 Brazil, and having them appear in another video created to rebut any
9 possible allegations that might be made against Jackson because of the
10 "Living with Michael Jackson" broadcast. These actions were planned and/or
11 carried out by close members of Jackson's entourage and paid for with funds
12 associated with Jackson."

13 *****

14 Second, the third paragraph references confidential informants as "information
15 from various sources," as follows:

16 "Throughout this investigation, SBSO investigators received information
17 from various sources, indicating [REDACTED] was Michael JACKSON's
18 personal assistant. Furthermore, [REDACTED] was responsible for the day to day
19 operations of MJJ Productions. MJJ Productions is Michael JACKSON's
20 personal company and is used to coordinate and execute many of
21 JACKSON's personal and business activities. Of note the sources of this
22 information include (but are not limited to) [REDACTED]
23 [REDACTED]
24 [REDACTED]"

25 *****

26 Third, the fifth paragraph references a "Confidential Reliable Informant" as follows:

1 "During the investigation, SBSO investigators received information from a
2 Confidential Reliable Informant (CRI), who stated Michael JACKSON told
3 the CRI that he (JACKSON) wanted to be like the "fog," in that JACKSON did
4 not want people to be able to track his activities and whereabouts. In order
5 to accomplish this, JACKSON did not utilize credit accounts or telephones,
6 which were associated with JACKSON. Rather, JACKSON used credit cards
7 and telephones connected with his associates and JACKSON registered at
8 hotels under assumed names. SBSO investigators have corroborated this
9 information through hotel records and [REDACTED]
10 [REDACTED] It should be noted this CRI provided information to SBSO
11 investigators on prior occasions. On these prior occasions, the information
12 provided by the CRI was found to be true, through evidence and/or
13 statements of other witnesses."

14 The referenced "numerous witnesses" "who provided information based on their
15 personal knowledge and/or documentation" are significant and thus must be disclosed.
16 These informants are crucial to the defense because they allegedly corroborated
17 "information derived from the victim" that "the victim and his immediate family, after
18 appearing in a film broadcast entitled 'Living with Michael Jackson' were obliged, through
19 the use of threats, to remain at Neverland Ranch, away from other family members, the
20 public and authorities."

21 Conveniently cloaked as "numerous witnesses," these informants are prima facie
22 material to this case because they allegedly have "personal knowledge" and/or
23 "documentation" concerning the alleged conspiracy to abduct the Doe children and to
24 extort and falsely imprison the Doe family. Blouin, supra, 80 Cal.App.3d 269, 145
25 Cal.Rptr. 7 (1978).

26 Indeed, there is a reasonable possibility that these informants could provide
27
28

1 information (by way of testimony or documentary evidence), to show, among other things,
2 that: (1) the Doe family was never forced to remain at Neverland; (2) no threats of any
3 kind were ever made to the Doe family to force them to remain at Neverland; (3) the Doe
4 family remained at Neverland out of their own volition and thus was free to leave at
5 any time; and (4) Mr. Jackson had nothing to do with (directly or indirectly, passively or
6 actively) the alleged conspiratorial acts, *to wit*, "death threats reportedly made towards
7 the victim and his family," "sequestering of the victim and his family by several of
8 Jackson's entourage," "moving the family out of their apartment residence, paying off the
9 rent due on the apartment, putting their belongings in storage, moving the family into
10 seclusion at Neverland Ranch, obtaining passports and visas for the victim and his mother
11 and siblings prior to a planned transport of the family to Brazil, and having them appear
12 in another video to rebut any possible allegations that might be made against Jackson,"
13 and "planning, and paying for funds associated with these actions."

14 Similarly, the informants referenced in the third paragraph as "information from
15 various sources" must also be disclosed because their testimony could exonerate Mr.
16 Jackson. The indictment accuses Mr. Jackson of having conspired with charged and
17 uncharged, as well as known and unknown, co-conspirators. This particular paragraph
18 insinuates that [REDACTED] was a co-conspirator and that she was involved in the
19 alleged conspiracy to abduct, extort, and falsely imprison the Doe Family. [REDACTED]

20 [REDACTED] Mr. Jackson's former employees, are mentioned in this paragraph as
21 two of the "various sources."

22 Disclosure of the informants wearing the veil of "various sources" is mandatory
23 because there is a reasonable possibility that these informants could rebut such
24 conspiracy allegations, which do not in any way involve Mr. Jackson.

25 Finally, the "confidential reliable informant" referenced in the fifth paragraph
26 must be disclosed because he/she may be a participant, an eyewitness, a non-participant
27

1 eyewitness or a material witness with knowledge of facts relevant to any of the charged
2 crimes in general, and in the conspiratorial acts in particular.

3 This paragraph insinuates that Mr. Jackson, as part of his broad conspiratorial
4 scheme to abduct, extort and falsely imprison the Doe family, wanted to remain like a
5 "fog" and thus utilized the names of his associates for telephone credit card accounts.

6 There is a reasonable possibility that this confidential reliable informant could
7 testify (or provide documentary evidence) concerning, among other things: (1) what and
8 how he/she knows (if any) about Mr. Jackson's alleged desire to be like a "fog"; (2) what
9 and how he/she knows about Mr. Jackson's alleged use of credit cards and phones through
10 others' names; (3) what and how he/she knows about Mr. Jackson and Mr. Jackson's day-
11 to-day affairs; (4) what information (other than the "fog" reference) he/she possesses about
12 Mr. Jackson; (5) what information he/she has about Mr. Jackson vis-à-vis the Doe Family;
13 and (6) Mr. Jackson's innocence and non-involvement in the alleged conspiracy to abduct,
14 extort and falsely imprison the Doe family

15 B. THIS MOTION SHOULD BE GRANTED BECAUSE A NONDISCLOSURE WILL
16 DEPRIVE MR. JACKSON OF HIS CONSTITUTIONAL RIGHT TO DUE PROCESS
17 AND FAIR TRIAL

18 Price v. Superior Court, 1 Cal.3d 836, 842, Cal.Rptr. 369 (1970), established that a
19 defendant is denied due process of law and a fair trial under the state and federal
20 constitutions when the State refuses to disclose the identity of an informant upon a
21 showing of a reasonable possibility that the informant possesses information which could
22 result in the Defendant's exoneration. This rule was reiterated in People v. Hobbs, 7
23 Cal.4th 948, 959, 30 Cal.Rptr. 651, 656 (1994). There, the California Supreme Court
24 stated:

25 "When it appears from the evidence, however, that the informer is also a
26 material witness on the issue of guilt, his identity is relevant and may be
27

1 helpful to the defendant. Non-disclosure would deprive him of a fair trial.

2 Thus, when it appears from the evidence that the informer is a material
3 witness on the issue of guilt and the accused seeks disclosure or cross-
4 examination, the People must either disclose his identity or incur a
5 dismissal."

6 The referenced informants in this case are prima facie material witnesses on the
7 issue of Mr. Jackson's innocence to the charged crimes, particularly the conspiratorial acts.
8 This motion must be granted.

9
10 V.

11 CONCLUSION

12 For all of the foregoing reasons, this motion should be granted.

13 DATED: October 4, 2004 Respectfully submitted,

14
15 Thomas A. Mesereau, Jr.
16 Susan C. Yu
17 COLLINS, MESEREAU, REDDOCK & YU

18 Steve Cochran
19 Stacey McGee Knight
20 KATTEN MUCHIN ZAVIS ROSENMAN

21 Robert M. Sanger
22 SANGER & SWYSEN

23 Brian Oxman
24 OXMAN & JAROSCAK

25 By: _____

26 Susan C. Yu
27 Attorneys for Mr. MICHAEL J. JACKSON
28

DECLARATION OF SUSAN C. YU

1
2 I, Susan C. Yu, declare as follows:

3 1. I am an attorney at law duly licensed to practice law in the courts of the
4 State of California, a partner in the law firm of Collins, Mesereau, Reddock & Yu, and co-
5 counsel for Mr. Michael Jackson in this criminal proceeding. I have personal knowledge
6 of the facts set forth herein and, if called and sworn as a witness, I could and would
7 competently testify thereto under oath.

8 2. The indictment alleges ten counts against Mr. Jackson: one count of
9 conspiracy to commit false imprisonment, child abduction and extortion (Count 1); four
10 counts of lewd conduct upon a child (Counts 2, 3, 4 and 5); one count of attempt to
11 commit a lewd act upon a child (Count 6); and four counts of administering alcohol to a
12 minor to assist in commission of a felony (Counts 7, 8, 9 and 10).

13 3. The indictment further alleges a conspiracy among Mr. Jackson, five named
14 but unindicted individuals, and other "uncharged" and "unknown" alleged co-
15 conspirators to commit child abduction, false imprisonment and extortion. Twenty-eight
16 overt acts in furtherance of this imaginary conspiracy are alleged.

17 4. Mr. Jackson has pled not guilty to all counts. He vehemently denies the false
18 allegations planted in the indictment and maintains his complete innocence.

19 5. Attached hereto as Exhibit 1 is a true and correct copy of the relevant page
20 (i.e., page 33) of the Neverland, [REDACTED] Miller Search Warrant Probable Cause Statement,
21 which I believe was submitted to Judge Adams on or about November 17, 2003. Page 33
22 references a *Confidential Reliable Agent*.

23 6. Attached hereto as Exhibit 2 is a true and correct copy of the relevant pages
24 (i.e., pages 4-5) of the Search Warrant No. 4914 Probable Cause Statement, dated February
25 2, 2004. Page 5 references a *Confidential Reliable Informant*.

26 7. Attached hereto as Exhibit 3 is a true and correct copy of the relevant pages
27
28

1 (i.e., pages 3 and 6) of the Search Warrant No. 4915 Probable Cause Statement, dated
2 February 2, 2004. Page 3 references "Numerous Witnesses, who provided information
3 based on their personal knowledge and/or documentation." Page 6 references "credible and
4 reliable sources."

5 8. Attached hereto as Exhibit 4 is a true and correct copy of the relevant pages
6 (i.e., pages 8 and 9) of the Search Warrant No. 4946 Probable Cause Statement, dated
7 March 2, 2004. Pages 8 and 9 reference *Confidential Reliable Informant*.

8 9. Attached hereto as Exhibit 5 and Exhibit 6 is a true and correct copy of the
9 relevant page (i.e., page 4) of the same Probable Cause Statement for Search Warrant Nos.
10 4953 and 4959, dated March 4, 2004. Page 4 references *Confidential Citizen Informant*.


11 10. Attached hereto as Exhibit 7, Exhibit 8 and Exhibit 9 is a true and correct
12 copy of the relevant page (i.e., page 5) of the same Probable Cause Statement for Search
13 Warrant Nos. 5006, 5007 and 5008, all dated March 4, 2004. Page 5 references
14 *Confidential Reliable Informant*.

15 11. Attached hereto as Exhibit 10 is a true and correct copy of the relevant page
16 (i.e., page 4) of the Search Warrant No. 5135 Probable Cause Statement, dated September
17 7, 2004. The second paragraph of page 4 references "numerous witnesses, who provided
18 information based on their personal knowledge and/or documentation." The third
19 paragraph references "information from various sources." The fourth paragraph references
20 a *Confidential Reliable Informant*.

21 12. Attached hereto as Exhibit 11 is a true and correct copy of an informal
22 discovery letter dated July 22, 2004 from Mr. Mesereau to Mr. Sneddon requesting, among
23 other things, disclosure of informants who qualify as reliable.

24 13. Attached hereto as Exhibit 12 is a true and correct copy of a letter dated
25 August 12, 2004 from Mr. Sneddon to Mr. Mesereau, stating that there was only one
26 individual given the description "confidential reliable informant" and that such informant
27 was [REDACTED]

1 I declare under penalty of perjury under the laws of the State of California that the
2 foregoing is true and correct and that this declaration was executed on this 4th day of
3 October 2004, at Los Angeles, California.

4 
5 _____
6 SUSAN C. YU

[EXHIBITS 1 – 10 REDACTED]

CMRY

COLLINS, MESEREAU, REDDOCK & YU

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THOMAS MESEREAU, JR.
A PROFESSIONAL LAW CORPORATION
SPECIALIZING IN CRIMINAL DEFENSE

July 22, 2004

VIA FACSIMILE (805) 568-2398

Thomas Sneddon, Esq.
District Attorney
District Attorney's Office
1105 Santa Barbara Street
Santa Barbara, CA 93108

Re: People v. Jackson, SBSC Case No. 1133603

Dear Mr. Sneddon:

Because of the complexity of this matter and the involvement of so many individuals and entities, we request that you provide us with a Bates-stamped copy of all discovery provided to date, and that all discovery provided to us in the future be Bates-stamped consecutively as well.

Additionally, in your discovery to date, you have neglected to include the following materials. These materials are critical to our trial preparation. Please consider this a continuing request for discovery pursuant to Penal Code Sections 1054 and 1054.5(b):

1. Please provide us with all clues that were called in, e-mailed and or sent via mail, in the matter involving Michael Jackson;
2. All crime reports prepared in relation to the investigation and prosecution of this case including Grand Theft, Child Abduction and False Imprisonment crime reports;
3. In the event the alleged crimes occurred in other jurisdictions, please identify the jurisdiction and the personnel from that jurisdiction;
4. All bail enhancement requests and documents;
5. All photographs, jail video and audio tapes, logs, and reports generated prior to, during and after Mr. Jackson was booked;

Exhibit 11 (p. 1/8)

6. List of all sworn and civilian employees who were present when Mr. Jackson was booked;
7. List of all suspects who were being held in holding tank(s) when Mr. Jackson was being booked;
8. All supervisor and watch commander logs that were generated and reflect issues concerning Mr. Jackson's arrest and or investigation;
9. All inter or intra departmental communications referencing Mr. Jackson's arrest, investigation and or inquiry;
10. Please provide us with all officer or investigator notes and note books, chronological records and logs, audio and/or video tapes, and police reports generated by the Santa Barbara Sheriff's Department, the Santa Barbara District Attorneys Office, or any other social, law enforcement or criminal justice entity, involved in the pre arrest and or post arrest investigation of Michael Jackson;
11. Please provide us with all audio and video tapes, transcripts of every tape, and please identify by name, address and phone number all participants and/or witnesses (including law enforcement officers, whether or not the individual is audible and/or visible on the recording), in each situation, transaction and/or occurrence recorded;
12. Please provide us with all e-mail communications (relevant to the Michael Jackson investigation) involving law enforcement, their agents and sworn and or civilian witnesses. This request pertains to all known investigations and or inquiries, regardless of time;
13. Please provide us with all notes, records, reports, phone conversations, statements (whether telephonic, in person, verbal, written, signed or unsigned), recordings (audio, video and/or transcripts), involving District Attorney Tom Sneddon's contacts with, but not limited to, Diane Diamond, Gloria Allred, Larry Feldman, Dr. Stanley Katz and Carole Lieberman. This request is limited to issues concerning Michael Jackson's arrest, past and present investigations and or inquiries conducted and or directed by Mr. Sneddon on behalf of the Santa Barbara District Attorney's Office and or by the current and former Sheriff of Santa Barbara County;
14. Any books, papers, documents, letters, photographs or tangible objects relevant to this case, particularly including the evidence which the prosecution intends to produce at trial, including, but not limited to any physical evidence obtained from or belonging to the defendants, or taken during searches involved in this matter. Any and all photographs, contact sheets, motion pictures or sound recordings, or transcripts of such sound recordings, which relate in any way to the issues involved

Exhibit 11 (p. 2/8)

in this case, whether taken or made at, prior to or subsequent to the time of commission of the alleged offense, and whether or not intended to be used by the prosecution at the time of the trial;

15. All reports relating to the investigation, including but not limited to the results of any electronic surveillance (including wire tapping) of conversations to which defendant was a party, and, if so, any and all recorded conversations, electronic, mechanical, stenographic or otherwise, between the defendant and any other persons, whether or not acting on behalf of the prosecution, which are relevant to the subject matter charged, and which are in the custody and control of the prosecution, whether or not intended to be used as evidence by the prosecution;
16. The results of any polygraph examination performed on any witness or potential witness in this case;
17. Any evidence of any understanding or agreement as to any future prosecution or punishment of any potential witnesses;
18. Any and all informants (sworn or civilian) in this case;
19. The records of all misdemeanor and felony convictions and/or rap sheets, including the existence of all pending charges and/or cases against any informant(s) involved in this matter;
20. The records of all payments and/or deals given to any informant used in this case;
21. All information, in any form, of any inducements, promises, representations or assurances, whether or not reduced to writing, given to any informant(s) involved in this matter, related to this matter, including, but not limited to plea agreements, dismissals of charges, and agreements not to prosecute, related to either the informant or any third party beneficiary;
22. Police reports of any cases pending against the informant(s) at the time when the information in the instant case was given;
23. The physical description and photographs (if any) of any confidential informant;
24. The name and address of any informant's employment, if employed;
25. Any relevant material or information which has been provided by an informant;
26. The prosecution shall provide all information which qualifies their informant as reliable, including, but not limited to, defendant's name and case number for all cases in which the informant gave information, what the specific information

Exhibit 11 (P. 3/8)

provided was, and what was subsequently discovered;

27. All notes or memoranda, handwritten or typed, concerning conversations with informants;
28. All statements taken from or made by any person, including witnesses in relation to this case, taped, written or unwritten, signed or unsigned, including any oral conversations, and all notes, memoranda, or recordings or documentation thereof with any member of any law enforcement agency, their agents, employees, representatives or investigators, or any person in any way relevant to the allegations charged herein whether or not the prosecution intends to call them at any hearings or trial;
29. The names, addresses and telephone numbers of all persons whom the prosecution may call as witnesses;
30. The following information concerning each witness the prosecution intends to call; date of birth, place of birth and physical descriptions; all aliases, aka's or pseudonyms; occupation and employment address; any charges pending against them, including the name of the court, case number, status of case, charges, investigating agency and witnesses thereto; any immunity agreements, whether written or unwritten, formal or informal;
31. The records of all arrests and convictions (i.e., "rap sheets"), both domestic and foreign, of any prospective witnesses;
32. The contents of all statements made to the potential witnesses and/or informants in order to induce potential witnesses and/or informants to cooperate with the investigation, preparation and/or prosecution of the above-entitled action;
33. All crime reports (including, but not limited to, follow up reports, property reports, scientific investigation reports, activity reports, coroner reports, etc.) prepared in relation to the investigation and prosecution of this case. This includes the notes of all police officers of their activities and observations during the period of the investigation of this case;
34. All notes made by police officers regarding their conversations with witnesses;
35. All notes made by prospective witnesses relating to matters to be covered in their testimony at the trial;
36. Documents used by witnesses to refresh their memory for the trial;

Exhibit 11 (p.4/p)

37. The contents of all statements made to the prosecution in interviews, testimony or by any person who claims to have information regarding the above-entitled action;
38. All experts who were in any way contacted by or involved in the investigation of witnesses;
39. Identities, including names, addresses, phone numbers, badge numbers, occupation, titles, and present assignments of all experts who prepared reports concerning their analysis or examinations upon any physical evidence, whether or not the prosecution intends to call them at the trial;
40. A current summary and itemization of the course of instruction or other training given to persons who are expected to testify as experts on any issue connected to this case, including, but not limited to a course summary, a list of all prior similar cases in which the "expert" has conducted an investigation and/or has testified, and a list of instructors and their qualifications;
41. Any and all writings or publications used in any way by the experts in forming opinions, or in obtaining a basis for forming an opinion, including teaching manuals, journals, treatises, textbooks, bulletins and other records of classes in the expert's field of expertise, or otherwise;
42. A list of all suspects, witnesses and defense counsel to whom the expert has spoken, who have provided information used in any way by the expert as a basis for forming any opinion;
43. All physical evidence including but not limited to, all documents, computers, papers, books, records, photographs, phone records, which may be introduced at the trial;
44. All other physical evidence which is now in the possession of the prosecutors or law enforcement officers or which has been examined and which is in any way relevant to this proceeding;
45. For each piece of physical evidence set forth in this letter, the present location and the name, address and phone number of the present custodian of said evidence;
46. Any reports or raw notes describing any of the physical evidence set forth in this communication;
47. The name, address, and phone number of each person to whom any of the physical evidence in this case was submitted for analysis including, but not limited to all criminalists, handwriting experts, psychologists, et al.;

Exhibit 11 (p. 5/4)

48. All reports of scientific tests and examination relative to this case which have been conducted by the prosecution and/or their agents;
49. The date and raw notes which were made in connection with the scientific tests in this case;
50. The content and nature of any finding or scientific or expert opinion which has been communicated to the prosecution but which has not been reduced to writing or a report;
51. All reports and scientific analyses performed at the request of the prosecution upon any physical evidence relating to this case, including, but not limited to, all computer reports, handwritten notes, transcriptions, charts, graphs, diagrams, sketches, raw scientific and analytical data, memoranda and laboratory worksheets or recordings of any kind used in the preparation and construction of final reports;
52. The following reports, forms, and evidence pertaining to the investigation of this case:
 - a. Follow-up investigation reports;
 - b. Supplemental reports;
 - c. Incident reports;
 - d. Chain of custody records;
 - e. Pitchess discovery;
 - f. Manuals re criminal investigations (rules-procedures);
 - g. Property reports;
 - h. Activity reports (Daily, Weekly, Monthly);
 - i. Control logs, dockets;
 - j. Investigators/officers raw notes, logs, chronologies;
 - k. Tape recordings-video of witness statements and transcripts;
 - l. Criminal history concerning victims and witnesses;
 - m. All potentially exculpatory investigative leads;

Exhibit 11 (P.6/p)

- n. All investigators present during interviews/interrogations;
- o. Notifications;
- p. Teletypes (DMV checks, record checks, criminal checks, date-times);
- q. Disclosure statements;
- r. Investigators final reports;
- s. Chronological logs;
- t. Six Pack (photo) comparisons;
- u. Prior crime reports involving suspects or witnesses;
- v. Press releases;
- w. Press appearances by investigators/personnel & their agents;
- x. Newspaper articles;
- y. Analyzed evidence reports;
- z. Intra departmental correspondence from all involved;
- aa. Field activity reports;
- bb. Names of supervisors who approved reports;
- cc. Names of prosecutors who reviewed reports;
- dd. Prosecutors charge evaluation sheets;
- ee. List of people interviewed but not intended to be called as witnesses;
- ff. Communication tapes;
- gg. Correspondence to other agencies; and
- hh. Scientific analysis reports.

Exhibit 11 (P. 7/p)

Thomas Sneddon, Esq.

July 22, 2004

Page 8

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The prosecution must inform defense counsel of any and all evidence and/or information from any source that it has which is or may be favorable to the defense in that it tends to exonerate the defendant or constitutes information that the defense might use to impeach or contradict prosecution witnesses, including all information which may lead to such information.

The items requested herein must be made available to defense counsel forthwith, thus enabling counsel to utilize the requested items in the preparation of motions and the trial in this matter.

This is a continuing request and requires the prosecution to inform counsel for the defendants forthwith of any information covered by this request which comes to the attention of police or prosecution after this request is made.

Sincerely,



Thomas A. Mesereau, Jr.

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Exhibit 11 (p. 8/8)

HOMAS W. SNEDDON, JR.
District Attorney

MARNIE B. PINSKER
Assistant Director

DAVID M. SAUNDERS
Chief Investigator

PATRICK J. McKINLEY
Assistant District Attorney

CHRISTIE STANLEY
Assistant District Attorney

ERICA A. HANSON
Chief Trial Deputy



COUNTY OF SANTA BARBARA
DISTRICT ATTORNEY

August 12, 2004

Thomas A. Mesereau, Jr., Esq.
Collins, Mesereau, Reddock, & Yu, LLP
1875 Century Park East, 7th Floor
Los Angeles, CA 90067

Dear Mr. Mesereau:

After reviewing your July 22nd Discovery Request and reviewing the relevant code provisions set forth in Penal Code §1054 et seq. governing discovery, the following response is provided. While some of the requests are standard requests covered by Penal Code §1054.1, others are not. To facilitate closure on the former and guidance as to the later, I have divided your requests into groups. As to several requests that were prefaced with the word "all" our answers are predicated upon the assumption your use of the word "all" is meant to apply to the current investigation involving the charges alleged in the indictment. If that was not your intention, then we believe the request to be overbroad. Additionally, we acknowledge, as we did during the Grand Jury Hearing, our continuing obligation to produce, without request on your part, any exculpatory evidence as defined under *Brady v. Maryland* and those cases amplifying Penal Code section 1054.1's discovery and due process requirements.

I. Pursuant to Penal Code §1054.1, we believe we are in complete compliance with regard to the following requests:

- #2 However, we believe the words "grand theft" were mistakenly substituted for word "extortion."
- #3
- #4 Please see the arrest warrant.
- #10 However, as the vagueness created by inclusion of the term "social" agency. If this applies to reports investigators obtain from this type of agency then it will be produced, but if it refers reports they may have that we are not aware and do not possess then we do not agree.
- #11 Except as to the requirement that we transcribe materials. Even though not required, we have provided copies of transcribed materials.
- #14

Exhibit 12 (P. 1/3)

☐ Santa Barbara Office
1112 Santa Barbara Street
Santa Barbara, CA 93101
(805) 568-2300
FAX (805) 568-2452

☐ Lompoc Office
115 Civic Center Plaza
Lompoc, CA 93436
(805) 737-7760
FAX (805) 737-7773

☐ Santa Maria Office
312-D East Cook Street
Santa Maria, CA 93454
(805) 346-7540
FAX (805) 346-7540

#15

#16

#17

#29

#32

#33

#36

#38

#39

#43

#44

#46

#47

#48

#50

#52a,b,c,d,g,m,r,s,t,aa,bb

2. Jackson Jail Booking Information.

We agree that the items requested in paragraph 5 through 8 are within the scope of 1054.1. We will immediately initiate steps to get the Attorney General's investigation materials and supplement those materials if necessary.

3. Informant(s).

As to the Confidential Reliable Informants request contained in paragraph 26, the only individual given that description was [REDACTED]. He is the CRI referenced in the original search warrant affidavit.

As to the remaining paragraphs 18-27, we agree that information, if it exists, is within 1054.1's scope, subject to the provisions of 1054.7.

4. The following items are duplicated elsewhere in your request:

#34

#49

#51

#52 j, k, l, y, ee, hh

5. The following items are beyond the scope of *Brady* and Penal Code §1054.1.

#9

#12

August 12, 2004

#13

#37 However, we are compliant to the extent that statements relevant to this investigation have been reduced to written reports.

#35

#52 e, f, u, v, w, x, z, cc, dd, gg

6. The following items are either overbroad or vague. If you wish to refine your request for these items and resubmit them to us we will be happy to evaluate whether they conform to our discovery obligations.

#1

#28 However, we are compliant to the extent that statements relevant to this investigation have been reduced to written reports.

#30

#31 However, we will comply with our obligation to provide the defense with information concerning moral turpitude crimes committed by material witnesses.

#40 However we will be provide available CVs on expert witnesses.

#41

#42

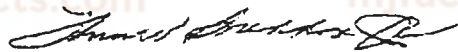
#45

#52 h, i, o, p, q, ff

7. #52n. We believe the current discovery complies with the request. However, in order to prevent any problems, all officers writing a report will be contacted to ensure full and accurate compliance with the request.

I believe that further discussions could result in a satisfactory agreement on some of these requests. Please feel free to contact us to discuss these requests.

Very truly yours,



Thomas W. Sneddon, Jr.
District Attorney

TWS:rm

cc: Steve Cochran, Esq.
R. Brian Oxman, Esq.
Robert Sanger, Esq.
Susan C. Yu, Esq.

1 PROOF OF SERVICE

2 I, the undersigned, declare:

3 I am a citizen of the United States of America, am over the age of eighteen (18)
4 years, and not a party to the within action. I am employed at 1875 Century Park East, 7th
Floor, Los Angeles, CA 90067. On October 4, 2004, I served the following document:

5 NOTICE OF MOTION AND MOTION COMPELLING DISCLOSURE OF INFORMANT'S
6 IDENTITY OR, IN THE ALTERNATIVE, DISMISSING THE ACCUSATORY PLEADING;
MEMORANDUM OF POINTS AND AUTHORITIES; DELCARATION OF SUSAN C. YU IN
SUPPORT THEREOF

7 on the interested parties addressed as follows:

8 Thomas Sneddon, Esq., District Attorney
9 Gerald Franklin, Esq.
10 Ronald Zonen, Esq.
11 Gordon Auchincloss, Esq.
12 District Attorney's Office
1105 Santa Barbara Street
Santa Barbara, CA 93108
FAX: (805) 568-2398

13 BY MAIL: I placed each envelope, containing the foregoing document, with postage
14 fully prepaid, in the United States mail at Los Angeles, California. I am readily familiar
with the business practice for collection and processing of mail in this office; that in the
15 ordinary course of business said document would be deposited with the US Postal Service
in Los Angeles on that same day.

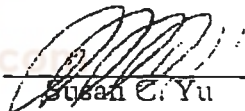
16 X BY FACSIMILE: I served a copy of the within document on the above-interested
17 parties, by way of a facsimile, at the facsimile numbers listed above.

18 BY MESSENGER/ATTORNEY SERVICE: I caused _____ to personally serve the
within document on the above interested parties.

19 X (State) I declare under penalty of perjury under the laws of the State of California
20 that the foregoing is true and correct.

21 _____ (Federal) I declare that I am employed in the office of a member of the bar of this
court at whose direction the service was made.

22 Executed on October 4, 2004, at Los Angeles, California.

23 
24 Susan C. Yu

PROOF OF SERVICE
1013A(1)(3), 1013(c) CCP

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA:

I am a citizen of the United States of America and a resident of the county aforesaid. I am employed by the County of Santa Barbara, State of California. I am over the age of 18 and not a party to the within action. My business address is 312-H East Cook Street, Santa Maria, California.

On OCTOBER 8, 20 04, I served a copy of the attached ORDER FOR RELEASE OF REDACTED DOCUMENTS (DEFENDANT'S MOTION COMPELLING DISCLOSURE OF INFORMANT'S IDENTITY OR IN THE ALTERNATIVE, DISMISSING THE ACCUSATORY PLEADING) addressed as follows:

THOMAS W. SNEDDON, DISTRICT ATTORNEY
DISTRICT ATTORNEY'S OFFICE
1105 SANTA BARBARA STREET
SANTA BARBARA, CA 93101

THOMAS A. MESEREAU, JR.
COLLINS, MESEREAU, REDDOCK & YU, LLP
1875 CENTURY PARK EAST, 7TH FLOOR
LOS ANGELES, CA 90067

X FAX

By faxing true copies thereof to the receiving fax numbers of: 805-568-2398 (DISTRICT ATTORNEY); 310-861-1007 (THOMAS A. MESEREAU, JR). Said transmission was reported complete and without error. Pursuant to California Rules of Court 2005(i), a transmission report was properly issued by the transmitting facsimile machine and is attached hereto.

 MAIL

By placing true copies thereof enclosed in a sealed envelope with postage fully prepaid, in the United States Postal Service mail box in the City of Santa Maria, County of Santa Barbara, addressed as above. That there is delivery service by the United States Postal Service at the place so addressed or that there is a regular communication by mail between the place of mailing and the place so addressed.

 PERSONAL SERVICE

By leaving a true copy thereof at their office with their clerk therein or the person having charge thereof.

 EXPRESS MAIL

By depositing such envelope in a post office, mailbox, sub-post office, substation, mail chute, or other like facility regularly maintained by the United States Postal Service for receipt of Express Mail, in a sealed envelope, with express mail postage paid.

I certify under penalty of perjury that the foregoing is true and correct. Executed this 8TH day of OCTOBER, 20 04, at Santa Maria, California.


CARRIE L. WAGNER