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15

16 SUPERIOR COURT OF THE STATE OF CALIFORNIA
17 FOR THE COUNTY OF SANTA BARBARA
18 SANTA MARIA DIVISION

19 THE PEOPLE OF THE STATE OF
20 CALIFORNIA,

21 Plaintiff,

22 vs.

23 MICHAEL JOE JACKSON

24 Defendant.
25
26
27
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FILED
SUPERIOR COURT OF CALIFORNIA
COUNTY OF SANTA BARBARA

OCT 14 2004

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

*unsealed pursuant
to 6/16/05 court's
order

CASE NO. 1133603

EX PARTE APPLICATION TO
ENDORSE SUBPOENA FOR WORK
RECORDS TO U.S. ARMY;
MEMORANDUM OF POINTS AND
AUTHORITIES; DECLARATION OF
COUNSEL

Hearing: October 14, 2004
Time: 8:30 a.m.
Place: Dept. SM-2

FILED UNDER SEAL

1
2
3 Defendant, Mr. Michael Jackson, submits this Ex Parte Application to Endorse
4 Subpoena for Work Records to U.S. Army pursuant to the requirements of 32 C.F.R.
5 sections 516.42 to -.46, which require a subpoena endorsed by the Court as a
6 prerequisite to issuing a subpoena for work records of a U.S. Army employee. Mr.
7 Jackson makes this application under seal and without notice to the prosecution
8 based on the Court's Order of August 9, 2004, under Teal v. Superior Court, 117 Cal.
9 App. 4th 488 (2004). This application is a similar procedure to the prosecution's
10 request for search warrants and makes a showing of both probable cause for the
11 records, along with relevance and materiality of Jay Daniel Jackson's work records
12 with the United States Army.

13 Mr. Jackson requests the court to endorse the subpoena which is attached as
14 Exhibit "A" on the following grounds:

15 (1) Jay Daniel Jackson was identified by the District Attorney as the
16 confidential reliable government informant in at least six (6) search warrants in this
17 case (Exhibit "B") where the government vouches for his history of trustworthiness,
18 veracity, and credibility, rendering his background, training, and employment records
19 relevant to this proceeding;

20 (2) Jay Daniel Jackson testified before this Court about his 22 years of
21 experience as a United States military officer, and he told the police he was in
22 contact with Janet Arvizo at all times during the period when the Arvizo family was
23 being falsely imprisoned, yet despite his military background as a United States
24 Army Major, he did nothing regarding such false imprisonment, rendering his
25 military background, training, and capabilities as a military officer relevant to this
26 proceeding;

27 (3) Jay Daniel Jackson conducted surveillance of Bradley Miller prior to the
28

1 search of his office on November 18, 2003, with full knowledge that Mr. Miller was
2 employed by Attorney Mark Geragos, but according to his sworn testimony before
3 this Court never once disclosed that information to the government, rendering is
4 military training, history of government service, and reliability as a government
5 employee relevant to this proceeding.

6 This Ex Parte Application is based upon this notice, the attached memorandum
7 of points and authorities, the declaration of counsel, the exhibits and evidence lodged
8 with this Court, the file and record herein and any other information presented prior
9 to a ruling hereon.

10 DATED: October 14, 2004

Respectfully submitted,

11 Thomas A. Mesereau, Jr.

12 Susan Yu

13 COLLINS, MESEREAU, REDDOCK & YU

14 Steve Cochran

15 Stacey McKee Knight

16 KATTEN MUCHIN ZAVIS ROSENMAN

17 Robert M. Sanger

18 SANGER & SWYSEN

19 Brian Oxman

20 OXMAN & JAROSCAK

21 By:

22 R. Brian Oxman

23 Attorneys for Defendant

24 MICHAEL J. JACKSON

DECLARATION OF BRIAN OXMAN

I, Brian Oxman, declare and say:

1. I am an attorney at law admitted to practice before all the courts of the State of California, and I am an attorney for Michael Jackson. I submit this declaration in support of Mr. Michael Jackson's request for an Order endorsing and ordering a Subpoena to the Custodian of Records for the United States Army.

2. On August 26, 2004, I issued on Mr. Michael Jackson's behalf a Subpoena to the Custodian of Records, United States Army, 311 COSCOM, which is the employer for witness Jay Daniel Jackson. (Exhibit "A"). The subpoena sought employment records for Jay Daniel Jackson consisting of personnel work file, communications with Santa Barbara County Officials in his employer's possession, communications with witnesses in the Michael Jackson case in his employer's possession, work evaluations, injury claims, pay records, disciplinary actions, special training, and security clearances. These records were sought because of the following reasons:

(1) Jay Daniel Jackson was identified by the District Attorney as the confidential reliable government informant in at least six (6) search warrants in this case (Exhibit "B") where the government vouches for his history of trustworthiness, veracity, and credibility, rendering his background, training, and employment records relevant to this proceeding;

(2) Jay Daniel Jackson testified before this Court about his 22 years of experience as a United States military officer, and he told the police he was in contact with Janet Arvizo at all times during the period when the Arvizo family was being falsely imprisoned, yet despite his military background as a United States Army Major, he did nothing regarding such false imprisonment, rendering his military background, training, and capabilities as a military officer relevant to this proceeding;

(3) Jay Daniel Jackson conducted surveillance of Bradley Miller prior to the search of his office on November 18, 2003, with full knowledge that Mr. Miller was employed by Attorney Mark Geragos, but according to his sworn testimony before this Court never once disclosed that

1 information to the government, rendering is military training, history of government service, and
2 reliability as a government employee relevant to this proceeding.

3 3. This government reliable informant's professional background, military training, and
4 employment records with the U.S. Army are critical items of information for this proceeding.
5 Where a United States Army Major was in continuous contact with the victims of a false
6 imprisonment, extortion, and child abduction during the very time incidents in question took place,
7 and when that same Army Major was present when the Arvizo Family was interviewed by Bradley
8 Miller, yet could not stop the false imprisonment, and when he was present during several of the
9 alleged overt acts contained in the Indictment, yet made no report to any police or government
10 agency, that individual's background, employment records, and training from his military employer
11 is critical to determine how this crime took place under the nose of the United States Army. This
12 reliable government informant conducted investigations and surveillance for the prosecution, and he
13 provided information both during and after the alleged crime, thereby rendering his history, training,
14 and conduct as a U.S. military officer of vital importance and relevance in this case.

15 4. The prosecution has claimed this reliable, confidential, and trustworthy informant is
16 credible and that the prosecution has worked with this individual in the past. When the prosecution
17 vouched for the veracity of this individual and his history of reliability, his work history became
18 relevant to the proceeding, including his training, conduct in his employment, and his work records.
19 The court should also note that of greatest interest was Jay Daniel Jackson's denial on the witness
20 stand in this court that he was an informant. The contradiction between the prosecution's
21 identification of this man as a reliable government informant and his denial of that status under
22 penalty of perjury is significant and requires an examination into this individual's work background
23 and history of government employment.

24 5. Jay Daniel Jackson's work records will demonstrate extensive training in military
25 operations, including hostage taking situations, and they will demonstrate experience in handling
26 criminal activity which takes place in his presence. They will demonstrate his experience with law
27 enforcement and military police operations, including handling disciplinary situations involving
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1 violent military personal who commit crimes. They will demonstrate extensive military schooling
2 and private training in surveillance, military reconnaissance, command disciplinary procedures for
3 soldiers who violate rules of military conduct. All of these records will be relevant and material to
4 the surveillance

5 On September 9, 2004, Lt. Colonel Michael G. Seidel sent me a letter stating that prior to the
6 Army providing the employment records in question, a court order needed to be obtained requesting
7 the records. He set forth the procedure that needed to be followed to obtain the records in question.
8 He stated:

9 "Under 32 CFR secs. 97.6(c), 516.41, the Army must authorize the release of the
10 documents your seek. In my capacity as Chief, General Litigation Branch, United States
11 Army Litigation Division, I have determined that the Army cannot authorize release unless
12 the following issues are resolved.

13 "You must request in writing the production of documents authorized by Department
14 of Defense directives and Army regulations. The request must include the nature of the
15 proceedings and the nature and relevance of the official information sought. Id. sec.
16 516.41(d). Please delineate the specific information that you seek to obtain from the
17 documents so that the Army can review that information and determine whether to permit
18 release. We cannot act on your request until we receive the required information."

19 "Due to the personnel records nature of the subpoena, you should also be aware that
20 a subpoena or other legal process signed by an attorney or clerk of court for records or
21 information protected by the Privacy Act, 5 U.S.C. sec. 552a, does not justify the release of
22 protected records An order signed by a judge or magistrate is required." (Exhibit "C").

23 6. On September 30, 2004, I telephoned Lt. Colonel Seidel and received directions from
24 him on what needed to be done to obtain the subpoenaed records. He stated there is no Army
25 regulation that prohibits the compliance with the subpoena in this case, nor is there any regulation
26 that would prohibit the disclosure of employment records for an Army Reserve officer such as Jay
27 Jackson. However, the Department of the Army does require that its receive a written
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1 specification of the relevance of the material requested to the pending court proceeding and that a
2 court of competent jurisdiction pass on the subpoena as necessary and appropriate followed by the
3 service of that "court order" on the Army.

4 7. Lt Colonel Scidel requested that I make an application to the court to approve the
5 subpoena I issued on August 26, 2004, and if the court so approved, he would comply with the
6 request. He further requested I broaden the request to include the Custodian of Records to the 63rd
7 Regional Readiness Command (RRC), and the Defense finance and Accounting Service, and the
8 U.S. Army Human Resources Command. These agencies of the Army are where the requested
9 records exist, along with the 311 COSCOM, and inclusion of them in the Court's Order would be
10 sufficient to obtain records from these entities.

11 8. On October 2, 2004, I sent to Lt. Colonel a written Memorandum outlining the reasons
12 why the materials sought in the August 26, 2004, subpoena were relevant and material to the case.
13 (Exhibit "D"). In addition, I will serve on Lt. Scidel a redacted version of this motion when
14 approved by the court. The work and employment records sought in the August 26, 2004, subpoena
15 are of great importance and relevant because they contradict the very claims the prosecution has
16 made that their reliable information is trustworthy and truthful.

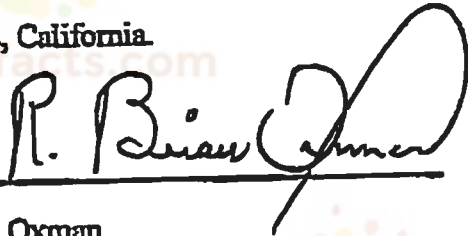
17 9. Mr. Michael Jackson requests this court to issue an order approving his August 26, 2004,
18 subpoena. Government informant Jay Daniel Jackson has provided surveillance of Bradley Miller
19 for the government, was present at the time of the alleged child abduction, false imprisonment, and
20 extortion, yet made no complaint or report, and, according to the government, is a trustworthy and
21 credible individual. The government has placed his history, training, and work related activities in
22 issue, and Mr. Michael Jackson is entitled to examine his work records.

23 10. The prosecution has sought to obtain the work records, credit reports, and history of
24 training and schooling for dozens of witness, including Mr. Michael Jackson, in more than 100
25 search warrants the prosecution has issued in this case. This is the first time the defense has sought
26 such an order from the court, and the showing of probable cause contained in this Motion meets the
27 standard of not only probable cause, but also materiality and relevance of the work history of a
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1 government informant. This court should be disturbed by the testimony from Army Major Jay
2 Daniel Jackson who wanted money and publicity from Michael Jackson, and it should sua sponte
3 want to look into the background, history and training of a military officer who never once
4 complained about what he now claims to be a crimes which took place in his presence.

5 I declare under penalty of perjury under the laws of the State of California the foregoing is
6 true and correct.

7 Executed this 14th day of October, at Santa Fe Springs, California.

8 
9
10 R. Brian Oxman

1 MEMORANDUM OF POINTS AND AUTHORITIES

2 L

3 INTRODUCTION

4 Defendant, Mr. Michael Jackson submits this Memorandum in support of his Motion to
5 Endorse Subpoena to U.S. Army for Work Records of Jay Daniel Jackson. Mr. Jackson's motion is
6 based on the following grounds:

7 (1) Jay Daniel Jackson was identified by the District Attorney as the confidential
8 reliable government informant in at least six (6) search warrants in this case (Exhibit "B") where the
9 government vouches for his history of trustworthiness, veracity, and credibility, rendering his
10 background, training, and employment records relevant to this proceeding;

11 (2) Jay Daniel Jackson testified before this Court about his 22 years of experience as
12 a United States military officer, and he told the police he was in contact with Janet Arvizo at all
13 times during the period when the Arvizo family was being falsely imprisoned, yet despite his
14 military background as a United States Army Major, he did nothing regarding such false
15 imprisonment, rendering his military background, training, and capabilities as a military officer
16 relevant to this proceeding;

17 (3) Jay Daniel Jackson conducted surveillance of Bradley Miller prior to the search
18 of his office on November 18, 2003, with full knowledge that Mr. Miller was employed by Attorney
19 Mark Geragos, but according to his sworn testimony before this Court never once disclosed that
20 information to the government, rendering his military training, history of government service, and
21 reliability as a government employee relevant to this proceeding.

22 A. Statement of the Case.

23 1. The Indictment.

24 Mr. Michael Jackson was charged with an Indictment on April 26, 2004, that alleged four (4)
25 counts of a lewd act upon a child, one (1) count of attempted lewd act on a child, plus four (4)
26 counts of administering an intoxicating agent to a child, and one (1) count of conspiracy to abduct,
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1 extort, and falsely imprison the Arvizo family. Mr. Jackson entered a not guilty plea on April 30,
2 2004. Trial is now set for January 31, 2005.

3 On August 26, 2004, Mr. Michael Jackson issued a subpoena to the United States Army
4 Reserve, 311 Components Corps Support Command (COSCOM) seeking employment records for
5 accusing witness Jay Daniel Jackson. Jay Daniel Jackson is a Major in the United States Army with
6 22 years of employment, the husband of the accusing witness Janet Arvizo, and step-father to
7 accusing witnesses Davellin, Gavin, and Star Arvizo. The records were sought because Jay Daniel
8 Jackson served as a confidential reliable government informant in this case which lead to six (6)
9 different search warrants, and he has testified to child abduction, extortion, and false imprisonment
10 that took place in the face of him never making a single complaint to any law enforcement agency.

11 Witness Jay Daniel Jackson, despite being a United States Army Major, was unable to either
12 complain about or in any manner prevent the abduction and false imprisonment of his family which
13 took place in his immediate presence. The prosecution states in affidavits under penalty of perjury
14 that he is trustworthy, credible, and reliable, yet despite his military training, extensive
15 commendations for bravery, military actions, and special skills as a Major, he was unable to do
16 anything concerning Michael Jackson's abduction of his family. Jay Daniel Jackson's background,
17 military training, and history of government service is a central issue of this case, and his conduct is
18 an inexplicable example of the absurdity of the claims being perpetrated on this court by a United
19 States Military Officer.

20 **2. The Department of Defense request a court order before it complies with**
21 **the subpoena for Jay Daniel Jackson's work records.**

22 On September 9, 2004, Lt. Colonel Michael G. Seidel, chief of the General Litigation
23 Branch of the US Army Legal Services Agency, sent Mr. Michael Jackson's attorney, Brian Oxman,
24 a letter stating that prior to the Army providing the employment records in question, a court order
25 was needed to be obtained requested the records. He set forth the procedure that needed to be
26 followed to obtain the records in question. He cited 32 C.F.R. secs. 97.6(c) and 516.41, which
27 authorize the Army to release the requested documents where a court of competent jurisdiction has
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1 passed upon the materiality of the documents and issued an order finding the material relevant to the
2 issues before the court.

3 In a telephone conversation Mr. Oxman had with Lt. Colonel Seidel on September 30, 2004,
4 Lt Colonel Seidel requested Mr. Oxman make an application to the court to approve the August 26,
5 2004, subpoena. Lt. Colonel Seidel stated that if the court so approved, he would comply with the
6 request because there is no Army regulation that prohibits the compliance with the subpoena in this
7 case, nor was there any regulation that would prohibit the disclosure of employment records for an
8 Army Reserve officer such as Jay Jackson. However, the Department of the Army would require a
9 court of competent jurisdiction pass on the subpoena as necessary and appropriate followed by the
10 service of that "court order" on the Army.

11 The prosecution has sought to obtain the work records, credit reports, and history of training
12 for dozens of witness, including Mr. Michael Jackson, in more than 100 search warrants the
13 prosecution has issued in this case. This is the first time the defense has sought such an order from
14 the court, and the showing of probable cause contained in this Motion not only meets the standard of
15 probable cause, but also materiality and relevance of the work history of a government informant.
16 This court should be disturbed by the testimony from Army Major Jay Daniel Jackson who wanted
17 money and publicity from Michael Jackson, and it should sua sponte want to look into the
18 background, history and training of a military officer who never once complained about what he
19 now claims to be a crimes which took place in his presence.

20 **B. Basis for Motion to Endorse Subpoena.**

21 Good cause exists to endorse the subpoena for Jay Daniel Jackson's work records because of
22 his work as a reliable and credible government informant, including surveillance of Private
23 Investigator Bradley Miller, and his military work history, experience, and training are relevant to
24 his informant activities. Despite his military training, extensive commendations for bravery,
25 command experience, and special skills as a Major in the United States Army, Jay Daniel Jackson
26 did nothing concerning the alleged abduction and false imprisonment of his family by Michael
27 Jackson, and his failure to complain or report the incidents that took place in his presence are
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1 inexplicable in view of his military background, training, and history of government service.
2 Michael Jackson's subpoena to the U.S. Army does not seek privileged information, and the Army
3 is ready to deliver the subpoenaed materials upon the court issuing an order endorsing the subpoena.

4 **II.**

5 **GOOD CAUSE EXISTS TO ENDORSE THE SUBPOENA FOR JAY DANIEL JACKSON'S**
6 **WORK RECORDS**

7 **A. Jay Daniel Jackson's Work Records are Relevant and Material Because of His**
8 **Participation as a Reliable and Credible Government Informant.**

9 The work and employment records sought in the August 26, 2004, subpoena are of great
10 importance and relevant because they contradict the very claims the prosecution has made that their
11 reliable information is trustworthy and truthful. The work history of that reliable governmental
12 informant is relevant because as a United States Army Major, he was in a position to both report the
13 alleged crimes in this case and do something to stop them. Yet, he did nothing, and with all the
14 training, authority, and resources of the United States Army, he let this alleged crime go unreported.

15 Under section 522 of the Privacy Act and 32 C.F.R. sections 516.41-46, the court should
16 examine the materiality of a subpoena directed to a federal employee or entity and make a
17 determination that the evidence sought is relevant to the case. Doe v. DiGenova, 779 F.2d 74, 79
18 (D.C. Cir. 1985) (Privacy Act allows disclosure "pursuant to order of a court of competent
19 jurisdiction." 5 U.S.C. section 552a(b)(11)); S. Rep. No. 1183, 93rd Cong., 2d Sess. 1 (1974),
20 reprinted in Senate Committee on Government Operations, United States Senate & Committee on
21 Government Operations, House of Representatives, Legislative History of the Privacy Act of 1974,
22 S. 3418 (Public Law No. 93-579) 154 (1976). Once that determination is made, the federal entity is
23 then required to determine if any regulation exists which prohibits disclosure of the requested
24 material. Boron Oil Co. v. Downie, 873 F.2d 67, 69 (4th Cir. 1989). In the absence of a regulation
25 prohibiting disclosure, the federal entity or employee will comply with the subpoena. Sweet v.
26 Schenk, 792 F.2d 1447, 1451-52 (9th Cir. 1986).

1 The materials sought in the subpoena are relevant and material to Jay Jackson's history as a
2 government employee because the prosecution states in search warrant affidavits he has a history of
3 being reliable, trustworthy, and credible. The informant's training, military abilities, and military
4 background is of the greatest importance because of his presence at the very time and place of the
5 alleged crimes in this case coupled with his failure to complain or act. Jay Daniel Jackson testified
6 before this court that he conducted surveillance of Bradley Miller prior to the search of his office on
7 November 18, 2003, with full knowledge that Mr. Miller was employed by Attorney Mark Geragos,
8 but never once disclosed that information to the government, rendering his military training, history
9 of government service, and reliability as a government employee relevant to this proceeding

10 **B. The Court Should Issue an Order Endorsing the Subpoena for Work Records.**

11 Section 97.6 of Title 32 of the Code of Federal Regulations sets up a procedure whereby
12 subpoenas and requests for information from Department of Defense Officials are reviewed by the
13 Judge Advocate General and the Litigation Branch. Subsection (c) provides for a procedure where a
14 requesting party sets forth in writing the nature of the information or testimony sought and
15 Department of Defense Officials approve or disapprove of the request. Subsection (c)(5) provides
16 that if a court finds through a court order the information is material to the case, the order should be
17 served on the Department of Defense which will then determine whether any regulation exists that
18 otherwise directs non-disclosure of the information.

19 Section 516.41 provides the Department of Army will disclose information regarding
20 employees if various conditions are satisfied. Subsection (d) provides:

21 "Requesters' responsibilities. Individuals seeking official information must submit,
22 at least 14 days before the desired date of production, a specific written request setting forth
23 the nature and relevance of the official information sought. (Requesters can be referred to
24 this subpart (d) subject to sec. 516.47(u), present and former DA personnel may only
25 produce, disclose, release, comment upon, or testify concerning those matters specified in
26 writing and properly approved by the SJA [Senior Judge Advocate], legal adviser, or
27 Litigation Division. (See United States ex. rel. Touhy v. Regen, 340 U.S. 462 (1951)).
28

1 Section 516.44 provides:

2 “(a) Policy. DA [Department of the Army] policy is to make official information
3 reasonably available for use in Federal and state courts and by other governmental bodies
4 unless the information is classified, privileged, or otherwise protected from public
5 disclosure.

6 “(b) Reasonability factors. In determining whether to authorize release of official
7 information, the deciding official should consider the following:

8 “(1) Has the requester complied with DA policy governing the release of
9 official documents in sec. 516.41(d);

10 “(2) Is the request unduly burdensome or otherwise inappropriate under the
11 applicable court rules?

12 “(3) Is the disclosure appropriate under the rules of procedure governing the
13 matter in which the request arose?

14 “(4) Would the disclosure violate a statute, executive order, regulation, or
15 directive?

16 “(5) Is the disclosure appropriate under the relevant substantive law
17 concerning privilege?

18 “(6) Would the disclosure reveal information properly classified pursuant to
19 the DOD [Department of Defense] Security Program under Alt 380 5, unclassified technical
20 data withheld from public release pursuant to 32 CFR sec. 250, or other matters exempt from
21 unrestricted disclosure?

22 “(7) Would disclosure interfere with ongoing enforcement proceedings,
23 compromise constitutional rights, reveal the identity of an intelligence source or confidential
24 informant, disclose trade secrets or confidential commercial or financial information, or,
25 otherwise be inappropriate under the circumstances?

26 “(8) would the disclosure violate any person’s expectation of confidentiality
27 or privacy?”
28

1 The subpoena Michael Jackson issued to the Army on August 26, 2004, for employment
2 records of Jay Daniel Jackson satisfies all of these requirements, particularly because the
3 prosecution in this case chose to use a U.S. Army Major, Jay Jackson, as a confidential reliable
4 informant. All appropriate preliminary discussions have taken place with the U.S. Army, the
5 request is not burdensome, and disclosure of employment records of the informant is appropriate
6 under the rules of procedure governing this matter without violation of any statute, rule, or executive
7 order. The disclosure is appropriate under substantive law governing privilege because only non-
8 privileged employment records are sought, no classified information is involved, and the request for
9 employment records does not violate any expectation of privacy.

10 This secret government informant's professional background, military training, employment
11 records, and financial arrangements with his employer are critical items of information for this
12 proceeding. Where a United States Army Major was in continuous contact with the victims of a
13 false imprisonment, extortion, and child abduction during the incidents in question, and when that
14 same Army Major was present when the Arvizo Family is interviewed by Bradley Miller, and when
15 he was present during several of the alleged overt acts contained in the Indictment, that individual's
16 background, employment records, and training from his military employer is critical to determine
17 how this crime took place under the nose of a United States Army officer. This reliable government
18 informant conducted investigations and surveillance for the prosecution, and he provide information
19 both during and after the alleged crime, thereby rendering his history for varsity and his military
20 training of vital relevance in this case.

21 **C. Michael Jackson's Subpoena Seeks No Privileged Records.**

22 Michael Jackson's subpoena seeks only the employment and work records for Jay Daniel
23 Jackson. There is no regulation prohibiting the disclosure of these materials and they are not
24 privileged in any manner. The work records are of the same kind and quality that are regularly
25 disclosed whenever a government employee acts as an informant to law enforcement because such
26 records are relevant to the informant's training, experience, motives, and capabilities.

27 Section 516.46(b)(2) provides:
28

1 "Unclassified records otherwise privileged from release under 5 U.S.C. 552(a) may
2 be released to the court under either of the following conditions:

3 "(i) The subpoena is accompanied by an order signed by a judge or magistrate, or
4 such order is separately served, that orders the person to whom the records pertain to release
5 the specific records, or that orders copies of the records be delivered to the clerk of the court,
6 and indicates that the court has determined the materiality of the records and nonavailability
7 of a claim of privilege.

8 "(ii) The clerk of the court is empowered by local statute or practice to receive the
9 records under seal subject to request that they be withheld from the parties until the court
10 determines whether the records are material to the issues and until any question of privilege
11 is resolved."

12 A federal employee may not be compelled to obey a state court subpoena contrary to his
13 federal employer's instructions under valid agency regulations. United States ex rel. Touhy v.
14 Ragen, 340 U.S. 462, 467 (1951). However, as Lt. Colonel Scidel pointed out to Mr. Oxman, there
15 is no Army regulation that prohibits the compliance with the subpoena in this case, nor is there any
16 regulation that would prohibit the disclosure of employment records for an Army Reserve officer
17 such as Jay Jackson. Boron Oil Co. v. Downie, 873 F.2d 67, 69 (4th Cir. 1989)(disclosure prohibited
18 only where valid federal regulation prohibits such disclosure of records). Rather, the only
19 requirement the Department of the Army has regarding this matter is that a court of competent
20 jurisdiction pass on the subpoena as necessary and appropriate and that such order then be served on
21 the Army. See Oxman Dec., p. 5, lines 21-28).

22 This is the same procedure that has been followed in numerous cases where the court
23 prohibits disclosure only if a regulation prohibiting the disclosure exists. See Sweet v. Schenk, 792
24 F.2d 1447, 1451-52 (9th Cir. 1986)(National Transportation Safety Board's regulation prohibited
25 disclosure of certain information, and in face of such valid regulations, state court could not hold
26 federal employee in contempt for refusing disclosure of prohibited material); Reynolds Metals Co.
27 v. Crowther, 572 F. Supp. 288, 290-91 (D. Mass. 1982)(federal district court dismissed contempt
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1 proceeding which would have compelled OSHA investigators to testifying private civil action in
2 state court contrary to agency's instructions under valid agency regulations); Smith v. C.R.C.
3 Builders Co., Inc., 626 F. Supp. 12, 14 (D. Colo. 1983)(OSHA official could not be compelled to
4 disobey order from an agency superior not to disclose information in state wrongful death action,
5 nor be punished for adherence to mandate of valid department regulations).

6 Mr. Jackson requests this court to issue an order approving his August 26, 2004, subpoena.
7 The military background, training, and experience of the prosecutions reliable informant are all
8 relevant to this case. Jay Daniel Jackson's military employment records and training are critical to
9 determine his purported inability, as a United States military officer, to either report or stop a child
10 abduction, extortion, and false imprisonment that took place in his presence..

11 **III.**

12 **CONCLUSION**

13 For the foregoing reasons, Mr. Michael Jackson requests his Motion to Endorse Subpoena
14 for Work Records of Jay Daniel Jackson be granted.

15 DATED: October 14, 2004

Respectfully submitted,

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

19 Steve Cochran
20 Stacey McKee Knight
21 KATTEN MUCHIN ZAVIS ROSENMAN

22 Robert M. Sanger
23 SANGER & SWYSEN

24 Brian Oxman
25 OXMAN & JAROSCAK

26 By: 

27 R. Brian Oxman
28 Attorneys for Defendant
MICHAEL J. JACKSON

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Thomas A. Meseraau, Jr. 91182 Brian Oxman 1875 Century Park East, Suite 700 Los Angeles, CA 90067		TELEPHONE NO.: (310) 284-3120 (562) 921-5058	FOR COURT USE ONLY
ATTORNEY FOR (Name): Michael Joe Jackson			
Insert name of court, judicial district or branch court, if any, and post office and street address: Santa Barbara County Superior Court, Santa Maria Division 312 E. Cook Street (Dept. SM-2: Judge Rodney Melville) Santa Maria, CA 93454			
Title of case: The People of the State of California v. Michael Jackson, et al.			
SUBPENA (CRIMINAL OR JUVENILE)		CASE NUMBER: 1133603	
<input checked="" type="checkbox"/> DUCES TECUM			

THE PEOPLE OF THE STATE OF CALIFORNIA, TO (NAME):

Custodian of Records, 311 Component Corps Command (COSCOM), U.S. Army Reserve

1. YOU ARE ORDERED TO APPEAR AS A WITNESS in this action at the date, time, and place shown in the box below
UNLESS you make a special agreement with the person named in item 3:

a. Date: September 13, 2004	Time: 9:00 a.m.	<input checked="" type="checkbox"/> Dept.: SM-2	<input type="checkbox"/> Div.:	<input type="checkbox"/> Room:
b. Address: 312 E. Cook Street, Dept. SM-2 (Judge Rodney Melville) Santa Maria, CA 93454				

2. AND YOU ARE

- a. ☐ ordered to appear in person.
- b. ☒ not required to appear in person if you produce the records described in the accompanying affidavit and a completed declaration of custodian of records in compliance with Evidence Code sections 1580, 1581, 1582, and 1271. (1) Place a copy of the records in an envelope (or other wrapper). Enclose your original declaration with the records. Seal them. (2) Attach a copy of this subpoena to the envelope or write on the envelope the case name and number, your name and date, time, and place from item 1 (the box above). (3) Place this first envelope in an outer envelope, seal it, and mail it to the clerk of the court at the address in item 1. (4) Mail a copy of your declaration to the attorney or party shown at the top of this form.
- c. ☐ ordered to appear in person and to produce the records described in the accompanying affidavit. The personal attendance of the custodian or other qualified witness and the production of the original records is required by this subpoena. The procedure authorized by subdivision (b) of section 1560, and sections 1561 and 1562, of the Evidence Code will not be deemed sufficient compliance with this subpoena.
- d. ☐ ordered to make the original business records described in the accompanying affidavit available for inspection at your business address by the attorney's representative and to permit copying at your business address under reasonable normal business hours, conditions during normal business hours.

3. IF YOU HAVE ANY QUESTIONS ABOUT THE TIME OR DATE FOR YOU TO APPEAR, OR IF YOU WANT TO BE CERTAIN THAT YOUR PRESENCE IS REQUIRED, CONTACT THE FOLLOWING PERSON BEFORE THE DATE ON WHICH YOU ARE TO APPEAR:

a. Name: Brian Oxman

b. Telephone number: (562) 921-5058

4. WITNESS FEES: You may be entitled to witness fees, mileage, or both, in the discretion of the court. Contact the person named in item 3 AFTER your appearance.

DISOBEDIENCE OF THIS SUBPENA MAY BE PUNISHED BY A FINE, IMPRISONMENT, OR BOTH. A WARRANT MAY ISSUE FOR YOUR ARREST IF YOU FAIL TO APPEAR.

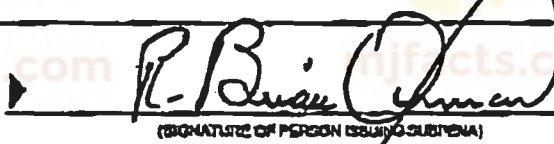
FOR COURT USE ONLY Date: August 26, 2004	 (SIGNATURE OF PERSON ISSUING SUBPENA)
Brian Oxman (TYPE OR PRINT NAME)	
Attorney for Michael J. Jackson (TITLE)	
(See reverse for proof of service)	

EXHIBIT "A"

ATTACHMENT TO ITEM 2(b)
Subpoena to Custodian of Records, 311 COSCOM
August 26, 2004

The items described in the following Affidavit to be produced pursuant to this subpoena are as follows:

(1) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning the personnel work file for Jay D. Jackson date of birth [REDACTED], social security number [REDACTED]. This individual is believed to be an Commissioned Officer Grade 4, on active duty in the U.S. Army Reserve since 9-1-81. He is believed to be Occupational Specialty Primary 13A, Duty 42B.

(2) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any contact, communications, or correspondence with you from any of the following government entities, or any person acting on their behalf, concerning or relating to Jay D. Jackson:

- (a) Los Angeles County Department of Family and Children Services;
- (b) Santa Barbara County Department of Child Protective Services;
- (c) Santa Barbara County District Attorney
- (d) Santa Barbara Sheriffs Department;
- (e) Los Angeles Police Department;
- (f) any personnel from any agency of the federal, state, or local government.

(2) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any contact, communications, or correspondence with you from the following persons, or anyone acting on their behalf, concerning or relating to Jay D. Jackson:

- (a) David Arvizo
- (b) Janet Arvizo
- (c) Janet Ventura
- (d) Davellin Arvizo
- (e) Gavin Arvizo
- (f) Star Arvizo
- (g) Gloria Allred
- (h) William Dickerman
- (i) Larry Feldman
- (j) Stanley Katz
- (k) Carol Lieberman, M.D.
- (m) Bradley Miller

(3) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any work evaluation, supervisor reviews, performance evaluations, or superior officer comments upon the performance of Jay D. Jackson, including but not limited to merit pay evaluations, reviews for promotion, complaints from co-workers, comments from fellow officers,

complaints from civilian personnel, or complaints from employees.

(4) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any insurance claim, claim for injury, claim for damages, disability claim, accident report, claim for lost wages, demand for compensation, or legal action instituted by or from Jay D. Jackson, against you, or any other person; business, or other entity associated with you.

(5) The cancelled pay checks or other evidence of payment, including but not limited to ledgers or computerized statements, for all pay, wages, or salaries paid to Jay Jackson, showing the front and back, for the period January 1, 1998, to the present.

(6) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning all pay rate histories, compensation histories, or scheduled pay for Jay D. Jackson since January 1, 1998.

(7) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any disciplinary actions, rank demotion, or charges seeking to impose penalties taken against or regarding Jay D. Jackson;

(8) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any special training, merit certifications, work certifications, special qualifications, certifications, or educational courses undertaken by Jay D. Jackson, including but not limited to police science classes, special military procedure courses, or riot control training;

(9) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any security clearances, special operations qualifications, combat experience, policing activities, or activities involving high risk procedures for Jay D. Jackson;

(10) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any reports, communications,, or notifications from Jay D. Jackson to you of arrest(s), criminal conviction(s), or police complaint(s) regarding or concerning him;

(11) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning, the criminal conviction of Jay Daniel Jackson in the Case of Commonwealth of the State of Virginia vs. Jay Daniel Jackson, Virginia District Court of Newport News Case No. GT000257700, including all explanations for criminal conduct, disclosures to superior officers of the offense charged, notification of completion of criminal sentence, and statements regarding rehabilitation.

(12) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning, either directly or

indirectly, the ca: of People of the State of California v.
Michael Jackson, Santa Barbara Superior Court Case No. 1133603,
as they related to or mention Jay Daniel Jackson.



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(310) 284-3120

Brian Oxman 072172
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(562) 921-5058

Attorneys for defendant,
Mr. Michael Jackson

SUPERIOR COURT OF CALIFORNIA, COUNTY OF SANTA BARBARA

PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

vs

MICHAEL JACKSON,

Defendant.

Case No. 1133603

DECLARATION OF
APPLICATION
FOR SUBPOENA DUCES TECUM

STATE OF CALIFORNIA, COUNTY OF SANTA BARBARA

1. The undersigned states: That he is the attorney of record for defendant, Michael Jackson, in the above-entitled action and that this cause has been duly set for hearing on September 13, 2004, at 8:30 a.m. in Department SM-2 of the Santa Barbara Superior Court, located at 312 East Cook Street, Santa Maria, California 93454.

2. Witness Custodian of Records, 311 Component Corps Support Command (COSCOM), U.S. Army Reserve, 1250 Federal Avenue, Los Angeles, CA 90025, has in his possession or control the following documents, objects, or other tangible things:

A. INSTRUCTIONS AND DEFINITIONS:

(1) As used herein, the term "DOCUMENT" or "DOCUMENTS" means any handwritten, recorded, typed, printed, pictorial, or graphic matter whatsoever, however produced or reproduced, and including without limitation, all "WRITINGS" as defined in California Evidence Code § 250. The term "DOCUMENT" or "DOCUMENTS" also includes any data compilation of any sort, whether stored magnetically, electronically, or otherwise, from which information can be obtained, translated, or, if necessary,

through detection devices into reasonably usable form. Any comment or notation appearing on any document, and not a part of the original text, is considered a separate document and any copy, draft, or preliminary form of any document is also considered a separate document.

(2) As used herein, the term "DOCUMENT" is intended to include within its scope each and every "ORIGINAL" (as the term is defined in California Evidence Code Section 255), and each and every "DUPLICATE" (as the term is defined in Evidence Code Section 260), of each and every "WRITING" (as the term is defined in California Evidence Code § 250) described in the requests set forth below.

(4) As used herein, the "COMPLAINANTS" refers to

(a) Janet Arvizo, aka Janet Ventura or Janet Jackson, date of birth [REDACTED], social security number [REDACTED]

(b) Davellin Arvizo, date of birth [REDACTED] social security number [REDACTED]

(c) Gavin Arvizo, date of birth [REDACTED] social security number [REDACTED]

(d) Star Arvizo, date of birth [REDACTED] social security number [REDACTED]

(e) Jay Daniel Jackson, date of birth [REDACTED] social security number [REDACTED]

or any person who is their representative, agent, or acting on their behalf, including their partners, corporations, or business entities where they have a property or ownership interest. The term "COMPLAINANTS" refers to all the individuals mentioned in this paragraph individually, whether or not the names of the others persons identified in this paragraph appear or are mentioned in the DOCUMENT. The term "COMPLAINANTS" also include present and former attorneys, agents, representatives, and any other persons acting on behalf of COMPLAINANT.

(4) As used herein, the "COMPLAINT" refers to the reports, claims, or allegations made by the COMPLAINANTS regarding Mr. Michael Jackson, which was made to you, or which COMPLAINANTS have made to any law enforcement agency or personnel at any time.

(5) "YOU" or "YOURS" refers to the Custodian of Records, United States 311 Component Corps Support Command (COSCON), Army Reserve, 1250 Federal Avenue, Los Angeles, CA 90025, and all of his agents, representatives, employees, attorneys, or any person acting on his behalf.

(6) As used herein, "PERSON" or "PERSONS" means any natural individual in any capacity, and all entities of every description, including, but not limited to, associations, organizations (public or private), agencies, companies, partnerships, joint ventures, corporations, and trusts.

(7) As used herein, "REPRESENTATIVE" or "REPRESENTATIVES" means any person (as defined herein) who acts, has at any time acted, or has purported to act, at the request of, for the benefit of, or on behalf of another, including, but not limited to, the parents, guardians, or agents of COMPLAINANT.

(8) As used herein, the term "COMMUNICATION" is to be interpreted comprehensively, and means any instance in which information was exchanged between or among two or more persons, including any oral or written utterance, notation, or statement of any nature whatsoever, by and to whomsoever made, and all understanding or exchanges of information between or among two or more persons.

(9) As used herein, the term "CORRESPONDENCE" means any handwritten, printed, typed, or otherwise recorded communication whatsoever between or among two or more persons, and includes, without limitation, memoranda, letters, notes, telegrams, telexes, facsimile transmissions, email records, and marginal notations or comments.

B. DOCUMENTS TO BE PRODUCED:

(1) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning the personnel work file for Jay D. Jackson date of birth [REDACTED], social security number [REDACTED]. This individual is believed to be an Commissioned Officer Grade 4, on active duty in the U.S. Army Reserve since 9-1-81. He is believed to be Occupational Specialty Primary 13A, Duty 42B.

(2) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any contact, communications, or correspondence with you from any of the following government entities, or any person acting on their behalf, concerning or relating to Jay D. Jackson:

- (a) Los Angeles County Department of Family and Children Services;
- (b) Santa Barbara County Department of Child Protective Services;
- (c) Santa Barbara County District Attorney
- (d) Santa Barbara Sheriffs Department;
- (e) Los Angeles Police Department;
- (f) any personnel from any agency of the federal, state, or local government.

(2) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any contact, communications, or correspondence with you from the following persons, or anyone acting on their behalf, concerning or relating to Jay D. Jackson:

- (a) David Arvizo
- (b) Janet Arvizo
- (c) Janet Ventura
- (d) Davellin Arvizo
- (e) Gavin Arvizo

- (f) Star Arvizo
- (g) Gloria Allred
- (h) William Dickerman
- (i) Larry Feldman
- (j) Stanley Katz
- (k) Carol Lieberman, M.D.
- (m) Bradley Miller

(3) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning any work evaluation, supervisor reviews, performance evaluations, or superior officer comments upon the performance of Jay D. Jackson, including but not limited to merit pay evaluations, reviews for promotion, complaints from co-workers, comments from fellow officers, complaints from civilian personnel, or complaints from employees.

(4) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any insurance claim, claim for injury, claim for damages, disability claim, accident report, claim for lost wages, demand for compensation, or legal action instituted by or from Jay D. Jackson, against you, or any other person, business, or other entity associated with you.

(5) The cancelled pay checks or other evidence of payment, including but not limited to ledgers or computerized statements, for all pay, wages, or salaries paid to Jay Jackson, showing the front and back, for the period January 1, 1998, to the present.

(6) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning all pay rate histories, compensation histories, or scheduled pay for Jay D. Jackson since January 1, 1998.

(7) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any disciplinary actions, rank demotion, or charges seeking to impose penalties taken against or regarding Jay D. Jackson;

(8) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any special training, merit certifications, work certifications, special qualifications, certifications, or educational courses undertaken by Jay D. Jackson, including but not limited to police science classes, special military procedure courses, or riot control training;

(9) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any security clearances, special operations qualifications, combat experience, policing activities, or activities involving high risk procedures for Jay D. Jackson;

(10) All DOCUMENTS constituting, evidencing, concerning, discussing, or mentioning any reports, communications,, or notifications from Jay D. Jackson to you of

arrest(s), criminal conviction(s), or police complaint(s) regarding or concerning him;

(11) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning, the criminal conviction of Jay Daniel Jackson in the Case of Commonwealth of the State of Virginia vs. Jay Daniel Jackson, Virginia District Court of Newport News Case No. GT000257700, including all explanations for criminal conduct, disclosures to superior officers of the offense charged, notification of completion of criminal sentence, and statements regarding rehabilitation.

(12) All DOCUMENTS constituting, evidencing, concerning, discussing or mentioning, either directly or indirectly, the case of People of the State of California v. Michael Jackson, Santa Barbara Superior Court Case No. 1133603, as they related to or mention Jay Daniel Jackson.

3. The above documents are material to the issues involved in the case by reason of the following facts:

A. The information sought will lead to witness, documents, and discoverable evidence that will show the claims made in the Pending Criminal Case in the Santa Barbara Superior Court are unfounded.

B. The information sought by this subpoena will disclose motives, biases, and exaggerations on behalf of and engaged in by Witness Jay Jackson and COMPLAINANTS;

C. The information sought contains information regarding the background, motives, state of mind, character and reputation for veracity, and reports of COMPLAINANTS,

D. The requested documents and/or information contains the prior inconsistent statements, recollections, observations, and reactions of COMPLAINANTS to the events and circumstances which gave rise to the Pending Criminal Case in the Santa Barbara Superior Court;

E. The requested materials constitute the faulty perception, inability to perceive, errors, and mistakes of Jay D. Jackson and COMPLAINANTS;

4. Good cause exists for the production of the above described matters and things by reason of the following facts:

A. The Custodian of Records of the 311 Core Support Command, U.S. Army Reserve is the sole and exclusive source of all such information, and no other person, business, or other entity has possession or control of such information.

B. The information requested by this Subpoena discloses the motive, intent, and conscious state of mind of persons making claims in the Santa Barbara Superior Court, along

with persons directing, counseling and controlling the complainants in the Santa Barbara Superior Court action.

C. No other source exists for such information because such disclosures were made only in the records of the U.S. 311 Core Support Command, Reserve, and the only person with such information is the 311 Core Support Command, U.S. Army Reserve.

WHEREFORE, request is made the Subpoena Duces Tecum issue.

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct.

Executed 26th day of August, at Los Angeles, California.


R. Brian Oxman



DEPARTMENT OF THE ARMY
UNITED STATES ARMY LEGAL SERVICES AGENCY
901 NORTH STUART STREET
ARLINGTON, VA 22203-1837

September 9, 2004

REPLY TO
ATTENTION OF

SENT VIA FACSIMILE AND EXPRESS MAIL
(562) 921-2298

General Litigation Branch

MR. BRIAN OXMAN, ESQ.
LAW OFFICES OF OXMAN & JAROSCAK
14126 E. Rosecrans Blvd.
Santa Fe Springs, CA 90670

SUBJECT: Subpoena for personnel and financial records of Major Jay D. Jackson; *People of the State of California v. Michael Jackson*, Case No. 1133603

Dear Mr. Oxman:

I coordinate general litigation issues for the Army. This morning, this office received a State court subpoena via e-mail from the U.S. Army Reserve Command. The subpoena requests the personnel and financial records of an active reserve officer, Major Jay D. Jackson, along with other personnel-related documents.

Under 32 CFR §§ 97.6(c), 516.41, the Army must authorize the release of the documents you seek. In my capacity as Chief, General Litigation Branch, United States Army Litigation Division, I have determined that the Army cannot authorize release unless the following issues are resolved.

You must request in writing the production of documents authorized by Department of Defense directives and Army regulations. The request must include the nature of the proceedings and the nature and relevance of the official information sought. *Id.* § 516.41(d). Please delineate the specific information that you seek to obtain from the documents so that the Army can review that information and determine whether to permit release. We cannot act on your request until we receive the required information. See, for example, *United States ex rel. Touhy v. Ragen*, 340 U.S. 462 (1951); *Boron Oil Co. v. Downie*, 873 F.2d 67 (4th Cir. 1989); *United States v. Blizzard*, 674 F.2d 1382 (11th Cir. 1982); *United States v. Marino*, 658 F.2d 1120 (6th Cir. 1981); *United States v. Allen*, 554 F.2d 398 (10th Cir. 1977).

ENCLOSURE "12"

Due to the personnel records nature of the subpoena, you should also be aware that a subpoena or other legal process signed by an attorney or clerk of court for records or information protected by the Privacy Act, 5 U.S.C. § 552a, does not justify the release of protected records. See, for example, *Doe v. DiGenova*, 779 F.2d 74 (D.C. Cir. 1985) and 32 CFR § 516.46(b)(1). An order signed by a judge or magistrate is required. Also, some of the documents you seek are not in the custody and control of the 311th Corps Support Command (COSCOM), U.S. Army Reserve. In fact, Major Jackson has recently transferred to the 63rd Regional Readiness Command (RRC). Accordingly, the required order should reference the 311th COSCOM, the 63rd RRC, the Defense Finance and Accounting Service (custodian of financial and pay records), and the U.S. Army Human Resources Command (custodian of personnel records).

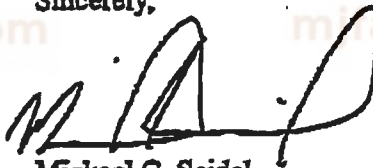
In the alternative to the required order above, a written release authorization from Major Jackson will suffice. The written release, if obtained, should specifically consent to the release of the subpoenaed documents protected by the Privacy Act, 5 U.S.C. § 552a(b).

You may obtain a copy of Army Regulation 27-40 at Internet website www.army.mil/usapa/index.html. The Army regulation also contains a copy of Department of Defense Directive 5405.2, *Release of Official Information in Litigation and Testimony by DoD Personnel as Witnesses*. You may also review the Code of Federal Regulation on the Internet at www.gpoaccess.gov. The Army's *Touhy* regulations are contained at 32 CFR §§ 97.6 and 516.41 et. seq.

Our sole concern in this matter is to protect the interests of the United States Army; the Army will not block access to documents to which you are lawfully entitled. So that the Army can adequately protect its interest in this matter, please respond at your earliest convenience.

If you desire to discuss this matter please contact me at 703-696-1635.

Sincerely,



Michael G. Seidel
Lieutenant Colonel, U.S. Army
Chief, General Litigation Branch

Law Offices of
Oxman & Jaroscak
14126 East Rosecrans Boulevard
Santa Fe Springs, California 90670
Tel. (562) 921 5058
Fax (562) 921-2298

October 2, 2004

Lt. Colonel Michael G. Seidel
Chief, General Litigation Branch
Department of the Army
901 North Stuart Street
Arlington, VA 22203

Re: People v. Michael Jackson, Santa Barbara County Superior Court Case No.
1133603

Dear Lt Colonel Seidel:

It was a pleasure to speak with you concerning the subpoena of Jay Daniel Jackson in the above-entitled action. Pursuant to your directions, this letter will outline the relevance and materiality of our subpoena for the work records we seek concerning Jay Daniel Jackson. We will present to the court our request to endorse and issue the subpoena, and when the court has signed an order, we will forward it to you.

On August 26, 2004, we issued on Mr. Michael Jackson's behalf a Subpoena to the Custodian of Records, United States Army, 311 COSCOM, which is the employer for witness Jay Daniel Jackson. The subpoena sought employment records for Jay Daniel Jackson consisting of personnel work file, communications with Santa Barbara County Officials in his employer's possession, communications with witnesses in the Michael Jackson case in his employer's possession, work evaluations, injury claims, pay records, disciplinary actions, special training, and security clearances. These records were sought because of the following reasons:

(1) Jay Daniel Jackson was identified by the District Attorney as the confidential reliable government informant in at least six (6) search warrants in this case where the government vouches for his history of trustworthiness and credibility, rendering his background, training, and employment records relevant to this proceeding;

(2) Jay Daniel Jackson conducted surveillance of Bradley Miller, private investigator, prior to the search of his office on November 18, 2003, with full knowledge that Mr. Miller was employed by Attorney Mark Geragos, an attorney for Michael Jackson, but according to his sworn testimony before the Court, never once disclosed that information to the

EXHIBIT "C"

government, rendering his military training, history of government service, and reliability as a government employee relevant to this proceeding;

(3) Jay Daniel Jackson testified before the Court and told the police he was in contact with Jane Doe, a complaining witness against Michael Jackson, at all times during the period when the Doe family was being falsely imprisoned, yet despite his military background as a United States Army Major he did nothing regarding such false imprisonment, rendering his military background, training, and capabilities as a military officer relevant to this proceeding;

This reliable government informant's professional background, military training, and employment records with the U.S. Army are critical items of information for this proceeding. Where a United States Army Major was in continuous contact with the victims of a false imprisonment, extortion, and child abduction during the very time the incidents in question took place, and when that same Army Major was present when the Doe Family was interviewed by Bradley Miller, yet could not report the incident to authorities, nor stop the false imprisonment, his work history and background become relevant to this case. He was present during several of the alleged, overt acts contained in the Indictment, yet made no report to any police or government agency.

This individual's background, employment records, and training from his military employer is critical to determine how this alleged crime took place under his nose. This reliable government informant conducted investigations and surveillance for the prosecution, and he provided information both during and after the alleged crime, thereby rendering his history, training, and conduct as an officer of vital importance and relevance in this case.

The prosecution has claimed this reliable, confidential, and trustworthy informant is credible and that the prosecution has worked with this individual in the past. When the prosecution vouched for the truthfulness of this individual and his history of reliability, his work history became relevant to the proceeding, including his training, conduct in his employment, and his work records. You should also note that of greatest interest was Jay Daniel Jackson's denial on the witness stand before the court that he was an informant. The contradiction between the prosecution's identification of this man as a reliable government informant and his denial of that status under penalty of perjury is significant and requires an examination into this individual's work background and history of government employment.

Jay Daniel Jackson's work records will demonstrate extensive training in military operations, including hostage taking situations, and they will demonstrate experience in handling criminal activity which takes place in his presence. They will demonstrate his experience with

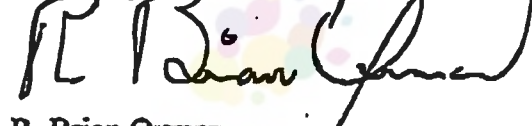
law enforcement and military police operations, including handling disciplinary situations involving violent military personnel who commit crimes. They will demonstrate extensive military schooling and private training in surveillance, military reconnaissance, and command disciplinary procedures for soldiers who violate rules of military conduct. All of these records will be relevant and material to the surveillance.

At your request we have asked the court to include the U.S. Army 63rd Regional Readiness Command (RRC), the Defense Finance and Accounting Service, and the U.S. Army Human Resources Command in our subpoena request. The documents and work records we seek from these agencies are the same in the August 26, 2004, subpoena we have previously given to you. When the court has signed the subpoena we will forward it to you.

Please understand the court has issued a confidentiality Order dated July 9, 2004, which we have already supplied to you. We are enclosing another copy for your convenience. The contents of the subpoena, this letter, and any other papers we serve on you are not to be distributed to any other person, nor discussed with them.

Please contact us if you have any questions.

Very truly yours,



R. Brian Oxman

RBO:ma
Enclosure