

FAMILY COURT OF THE STATE OF NEW YORK  
CITY OF NEW YORK: COUNTY OF

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In the Matter of : Adj. Date: Part:  
 : Docket No.:  
 :  
 : DEMAND TO PRODUCE  
A Person Alleged to be a Juvenile : AND REQUEST FOR BILL  
Delinquent, : OF PARTICULARS  
 :  
 Respondent. :  
-----X

**DEMAND TO PRODUCE**

PLEASE TAKE NOTICE, that pursuant to Sections 331.2 and 331.7 of the Family Court Act, the Respondent demands that you disclose to the Respondent, through his/her attorney, [name of attorney], and make available for inspection, photography, copying or testing, within fifteen (15) days of service of this Demand or as soon thereafter as practicable, and on/at dates/times and at a location specified in your Response, the following property:

(A) any written, recorded or oral statement of the respondent, or by a co-respondent, made, other than in the course of the criminal transaction, to a public servant engaged in law enforcement activity or to a person then acting under his direction or in cooperation with him;

(B) any transcript of testimony relating to the proceeding pending against the respondent, given by the respondent, or by a co-respondent, before any grand jury. Pursuant to Family Court Act § 331.2(2)(b), the presentment agency shall forthwith request that the district attorney provide a transcript of any grand jury testimony; upon receiving such a request, the district attorney shall promptly apply to the appropriate criminal court, with written notice to the presentment agency and the respondent, for a written order pursuant to Judiciary Law § 325 releasing a transcript of testimony to the presentment agency;

(C) any written report or document, or portion thereof, including handwritten or other notes prepared in connection with and prior to preparation of a formal report or document [People v. DaGata, 86 N.Y.2d 40 (1995)], concerning a physical or mental examination, or scientific test or experiment, relating to the proceeding which was made by, or at the request or direction of a public servant engaged in law enforcement activity or which was made by a person whom the presentment agency intends to call as a witness at a hearing, or which the presentment agency intends to introduce at a hearing;

(D) any photograph or drawing relating to the proceeding which was made or completed by a public servant engaged in law enforcement activity, or which was made by a

person whom the presentment agency intends to call as a witness at a hearing, or which the presentment agency intends to introduce at a hearing;

(E) any other property obtained from the respondent or a co-respondent;

(F) any tapes or other electronic recordings, including recordings of "911" phone calls and surveillance recordings, which the presentment agency intends to introduce at the fact-finding hearing, irrespective of whether such recording was made during the course of the criminal transaction;

(G) anything required to be disclosed, prior to the fact-finding hearing, to the respondent by the presentment agency, pursuant to the constitution of this state or of the United States, including, but not limited to:

(1) Any recorded or unrecorded evidence, in the actual or constructive possession of the presentment agency or of a public prosecutor or law enforcement agency also involved in the investigation and/or prosecution of this case, that is exculpatory or otherwise favorable to the defense, disclosure of which is mandated by Brady v. Maryland, 373 U.S. 83 (1963) and related Federal and New York State case law, including, but not limited to:

(a) Any evidence that another individual, and not the Respondent, committed the acts charged.

(b) Any evidence that might adversely affect the credibility of a prosecution witness, including, but not limited to:

(i) Evidence of bias or interest or other motive to fabricate;

(ii) Prior inconsistent statements made by a witness regarding the charges in this case;

(iii) Evidence of a witness's prior bad acts, juvenile delinquency or youthful offender adjudications, or criminal convictions, including, but not limited to: a record of a witness's judgment of conviction if such record is known by the presentment agency to exist [see also FCA §§ 331.4(1)(b), 331.4(3)(b)]; the existence of any pending criminal or juvenile delinquency action against a witness if such pending action is known by the presentment agency to exist [see also FCA §§ 331.4(1)(c), 331.4(3)(c)]; information regarding the acts underlying pending criminal or juvenile delinquency charges that have not been filed; and information regarding employee disciplinary proceedings brought against a witness;

(iv) The complete and specific terms of any plea bargain or witness cooperation agreement made by a witness and the presentment agency or another public prosecutor;

(v) Evidence of a witness's prior false allegations against the Respondent, or false allegations that are similar to the allegations made against the Respondent;

- (vi) Evidence that a witness failed to identify the Respondent in a photographic or corporeal identification procedure;
- (vii) Evidence of any physical, mental or emotional condition that could affect/have affected a witness's ability to perceive and recall relevant events, or a witness's ability to testify truthfully and accurately, including, but not limited to, evidence of a history of hospitalization or treatment for mental illness or drug or alcohol abuse;
- (viii) Evidence of a material conflict in statements made to the presentment agency or law enforcement officials by multiple witnesses;
- (ix) Evidence of a witness's status as an informant for law enforcement.

(2) Any documents or other information without which the Respondent and his/her attorney will be unable to make a motion to suppress evidence pursuant to the Federal or State Constitution, or preserve the Respondent's Federal and State constitutional right to the effective assistance of counsel or right of confrontation, including, but not limited to:

(a) Any documents prepared by the presentment agency or law enforcement officials containing facts relevant to a motion to suppress evidence, including, but not limited to:

- (i) Any documents submitted to a court or otherwise prepared in connection with an application for a search warrant;
- (ii) Any document containing facts regarding conduct by police, school or other government personnel, including, but not limited to, the following conduct: an approach to request information, a common law inquiry, a stop/frisk, an arrest, or the search of the person, a bag or other container, a school locker or desk, an automobile, or private premises;
- (iii) Any document containing factual information regarding the interrogation or other questioning of the Respondent by the presentment agency or by law enforcement personnel;
- (iv) Any written form from which law enforcement personnel read Miranda warnings to the Respondent or his/her parent or guardian, and any written waiver of rights;
- (v) Any document containing factual information regarding an identification procedure arranged by law enforcement personnel;
- (vi) The photographs or other images used in an identification procedure in which a witness identified the Respondent;
- (vii) Any photographs of a lineup from which a witness identified the Respondent;

(b) Any written or recorded statement, including any testimony before a grand jury and any examination videotaped pursuant to Criminal Procedure Law § 190.32, made by a person whom the presentment agency intends to call as a witness at a suppression hearing or at the fact-finding hearing, and which relates to the subject matter of the witness's testimony, discovery of which is required at a hearing by

Family Court Act §§ 331.4(1)(a) and 331.4(3)(a), but for which the Respondent has a compelling need and without which defense counsel cannot adequately prepare in advance of the hearing [see Matter of District Attorney of Suffolk County, 58 N.Y.2d 436 (1983); People v. Rosario, 9 N.Y.2d 286 (1961)];

(c) Any hearsay evidence the presentment agency intends to introduce at the fact-finding hearing that arguably constitutes testimonial hearsay subject to exclusion pursuant to Crawford v. Washington, 541 U.S. 36 (2004) and its progeny and related New York case law, including, but not limited to: excited utterances; present sense impressions; declarations against interest, prompt outcries; and statements made for purposes of diagnosis or treatment.

(H) the approximate date, time and place of the offense charged and of respondent's arrest.

PLEASE TAKE FURTHER NOTICE, that pursuant to Family Court Act § 331.2(2)(a), the presentment agency shall make a diligent, good faith effort to ascertain the existence of any property demanded above and to cause such property to be made available for discovery where it exists but is not within the presentment agency's possession, custody or control; provided, that the presentment agency shall not be required to obtain by subpoena duces tecum demanded material which the respondent may thereby obtain. Pursuant to Family Court Act § 331.5(4), the presentment agency, if it finds, either before or during the fact-finding hearing, additional material subject to discovery, shall promptly comply with this Demand.

PLEASE TAKE FURTHER NOTICE, that the Respondent demands that you disclose to the Respondent, through his/her attorney, [name of attorney], the following information, discovery of which the Respondent is entitled to pursuant to case law:

(A) The name, home or business address, and date of birth, of any witness the presentment agency intends to call at a suppression or fact-finding hearing [People v. Rivera, 119 A.D.2d 517 (1st Dept. 1986) (absent compelling circumstances such as danger of intimidation, names should be disclosed)];

(B) Evidence the presentment intends to introduce during its direct case pursuant to People v. Molineux, 168 N.Y. 264 (1901) and related case law permitting introduction of uncharged crimes evidence, disclosure of which should be provided before trial pursuant to People v. Ventimiglia, 52 N.Y.2d 350 (1981);

(C) All specific instances of respondent's prior uncharged criminal, vicious or immoral conduct of which the presentment agency has knowledge and which the presentment agency intends to use at trial for purposes of impeaching the credibility of the respondent, disclosure of which is required by Criminal Procedure Law § 240.43 [Matter of Daniel C., 29 Misc.3d 548 (Fam. Ct., Queens Co., 2010)].

## REQUEST FOR BILL OF PARTICULARS

PLEASE TAKE NOTICE, that pursuant to Section 330.1 of the Family Court Act, the Respondent requests that you provide to the Respondent, through his/her attorney, [name of attorney], within fifteen (15) days of service of this Request or as soon thereafter as practicable, a bill of particulars specifying the following items of factual information, without which the Respondent cannot adequately prepare or conduct a defense: [as appropriate, given the facts of the case, choose from the following]

1. Any items of factual information which are not recited in the petition, which pertain to the substance of each respondent's conduct encompassed by the charges, and which the presentment agency intends to prove at the fact-finding hearing on its direct case.
2. Whether the presentment agency intends to prove that the respondent acted as principal or accomplice or both.
3. With respect to count(s) [insert count number(s)], which charge(s) acts allegedly committed in the period of time between [state beginning and end dates], state with more specificity the date(s) and times when the acts were allegedly committed.
4. With respect to the charge of burglary in the \_\_\_ degree, state what crime the presentment agency alleges the Respondent intended to commit.
5. With respect to the charge of criminal possession of a weapon in the fourth degree [Penal Law § 265.01(2)], state in what manner the Respondent intended to use the weapon unlawfully against another.
6. With respect to the charge(s) of resisting arrest (and/or obstructing governmental administration in the second degree), state the basis for the allegedly authorized arrest (and/or the official function being performed by the officer).

DATED: \_\_\_\_\_, New York  
(date)

Yours, etc.,

TAMARA A. STECKLER, ESQ.

\_\_\_\_\_, of Counsel  
Attorney for the Respondent

THE LEGAL AID SOCIETY

\_\_\_\_\_, N.Y. 10013  
( )

TO:

\_\_\_\_\_, ESQ.  
CORPORATION COUNSEL

\_\_\_\_\_, N.Y.

