

1 Jeff Adachi  
Public Defender  
2 City and County of San Francisco  
Teresa Caffese  
3 Chief Attorney  
BY: \_\_\_\_\_  
4 State Bar No. -----  
Deputy Public Defender  
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Attorneys for Defendant  
7

8 **Superior Court of the State of California**  
**County of San Francisco**

9 **The People of the State**  
10 **of California,**

Dept. No. 22

11 Plaintiff,

Docket No. 2266338

12 v.

Date Records Are Due in Court: 3/18/2010  
Time: 9:00

13 **Name of Client,**

14 Defendant.  
\_\_\_\_\_ /

**Declaration in Support**  
**of Subpoena Duces Tecum**

15 I, Matthew J. Rosen, hereby declare as follows:

16 ❶ I am an attorney duly licensed to practice law in the State of California. All  
17 facts set forth below are personally known to me to be true, except those which are set forth  
18 upon information and belief, and, as to those facts, I am informed and believe, and thereupon  
19 allege, that they are true.

20 ❷ I am an attorney with the San Francisco County Public Defender's Office,  
21 assigned to represent the defendant in the above-entitled matter.

22 ❸ The defendant is charged in a criminal matter which is currently pending in  
23 the Superior Court of San Francisco County, Hall of Justice.

24 ❹ The Public Defender has the power to issue subpoenas under Penal Code  
25 section 1326. (See *People v. Superior Court [Barrett]* (2002) 80 Cal.App.4th 1305, 1314.)  
26  
27

1           ⑤ A subpoena duces tecum issued by the Public Defender in a criminal matter,  
2 such as this one, is exempt from the discovery provisions of the Code of Civil Procedure,  
3 including the requirement of a “good cause” affidavit. (See *Pitchess v. Superior Court* (1974)  
4 11 Cal.3d 531, 535; *Michael B. v. Superior Court* (2002) 103 Cal.App.4th 1384, 1393-1396;  
5 *Fabricant v. Superior Court* (1980) 104 Cal.App.3d 905, 915.)

6           ⑥ I am informed and believe that the records listed in the attached subpoena  
7 duces tecum are currently in the possession of the San Francisco Crime Laboratory and/or  
8 the San Francisco Police Department. These records include records relating to Ms. Debbie  
9 Madden – SFPD Criminalist who reviewed and/or performed the testing of these substances. I am  
10 informed and believe that Ms. Debbie Madden is currently being investigated by the SF Police for  
11 her unlawful behavior while employed at the Crime Lab. I am also informed and believe that on or  
12 about March 3, 2010, a search warrant was executed upon Ms. Madden's home. I am requesting the  
13 following information:

- 14           1. Any disciplinary records kept on Ms. Madden;
- 15           2. Any reports by other employees of alleged unlawful actions by Ms. Madden;
- 16           3. Any statements given by other crime lab employees about the alleged  
17 unlawful behavior by Ms. Madden;
- 18           4. All memoranda, reports, documentation, taped interviews of witnesses,  
19 relating to the investigation of Ms. Madden and/or other employees of the the  
20 Crime Laboratory in this matter;
- 21           5. The specific date the crime lab reported the alleged unlawful behavior to the  
22 San Francisco Police or any other investigatory agency;
- 23           6. The personnel file - including notes, write-ups, reviews, warnings, of Debbie  
24 Madden in regard to any disciplinary action taken against her;
- 25           7. The search warrant affidavit and search warrant return that was executed on  
26 Ms. Madden's residence on or about March 3, 2010;
- 27           8. A copy of the statement given by Ms. Deborah Madden to authorities  
concerning the investigation of this matter;

- 9 All memoranda, reports, documentation, taped interviews of witnesses, relating to the investigation of Ms. Madden and/or other employees of the the Crime Laboratory in this matter;
10. The specific date the District Attorney's Office became aware of the investigation relating to reports of evidence tampering in the crime lab and Ms. Madden's alleged involvement;
11. Ms. Madden's California Criminal Identification Index (C.I.I. Record, commonly known as a rap sheet – both local and statewide criminal history);
12. The specific date that the District Attorney's Office became aware of Ms. Madden's prior criminal history;
13. The personnel file - including notes, write-ups, reviews, warnings, of Debbie Madden in regard to any disciplinary action taken against her;

My office has no means to obtain these records other than by subpoena duces tecum.

⑦ I am likewise informed and believe that said records are essential to the defense and will facilitate the ascertainment of true facts and a fair trial in this matter. (*People v. Superior Court [Barrett]*, *supra*, 80 Cal.App.4th at pp. 1315-1316.)

⑧ The records will be needed in Dept. 22 of the San Francisco Superior Court on 3/18/10 at 9:00. Failure to comply with a subpoena duces tecum may be punished as contempt. (Penal Code § 1331; *Chapman v. Superior Court* (1968) 261 Cal.App.2d 194, 199; *In Re Garcia* (1974) 41 Cal.App.4th 997, 999.)

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

Executed this March 18, 2010, in San Francisco, CA.

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Deputy Public Defender