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THE SUPERIOR COURT OF THE STATE OF CALIFORNIA
CITY AND COUNTY OF SAN FRANCISCO

THE PEOPLE OF THE STATE OF CALIFORNIA,

Plaintiff,

v.

KYRA WORTHY,

Defendant.

FELONY COMPLAINT
ARREST WARRANT

COURT NUMBER:

VIOLATIONS:

424(a)(1) Penal Code/Felony (2 counts)

2118.5 Unemployment Insurance Code (1
count)

487m(a) Penal Code/Felony (24 counts)

487(a) Penal Code/Felony (1 count)

72 Penal Code/Felony (4 counts)

476a(a) Penal Code/Felony (2 counts)

SPECIAL ALLEGATION:

1203.045 Penal Code

SAN FRANCISCO DISTRICT ATTORNEY INSPECTOR MIKE REILLY, being sworn
says, on information and belief, that:

MISAPPROPRIATION OF PUBLIC MONEY

COUNT 1

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 13th day of June 2023 through the 24th day of January 2024, both dates inclusive, commit the crime of MISAPPROPRIATION OF PUBLIC MONEY, to wit: Violating Section **424(a)(1)** of the Penal Code, a Felony, in that the said defendant WORTHY, being a person described in Penal Code Section 424 charged with the receipt, safekeeping, transfer, and disbursement of public moneys, did in a manner not incidental and minimal, without authority of law, appropriate the same, and any portion thereof, to her own use, and to the use of another, to wit: \$400,000 owed to Bay Area Community Resources.

COUNT 2

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 17th day of August 2023 through the 24th day of January 2024, both dates inclusive, commit the crime of MISAPPROPRIATION OF PUBLIC MONEY, to wit: Violating Section **424(a)(1)** of the Penal Code, a Felony, in that the said defendant WORTHY, being a person described in Penal Code Section 424 charged with the receipt, safekeeping, transfer, and disbursement of public moneys, did in a manner not incidental and minimal, without authority of law, appropriate the same, and any portion thereof, to her own use, and to the use of another, to wit: \$112,500 owed to Calle 24 Latino District.

WILLFUL FAILURE TO PAY TAXES AND WAGE THEFT

COUNT 3

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of FAILURE TO COLLECT OR PAY OVER TAX OR OTHER MONEY, to wit: Violating section **2118.5** of the Unemployment Insurance Code, a Felony, in that the said defendant, although required by the Unemployment Insurance Code to collect, account for, and pay over any tax or amount required to be withheld, did then and there willfully fail to collect and truthfully account for and pay over such tax or amount.

COUNT 4

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive ALVARO LOPEZ, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 5

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive ARTEMIO CAMPOS, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 6

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 5th day of December 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive BRYAN SYLVESTER, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 7

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive DESEAN ATCHAN, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 8

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive EDWIN MURCIA SR., an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 9

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive ERIC HIGUERA, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 10

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive FAAUTUGATAGI TAGATA, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 11

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 5th day of December 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive FILIBERTO SANCHEZ HERNANDEZ, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 12

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive FURLISHOUS WYATT, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 13

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive GINA GUITRON, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 14

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of October 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive JENNY PHAM, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 15

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 1st day of October 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive JOHNNY TRAMMEL, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 16

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive JOSHUA MILES, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 17

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive KEITH HOPKINS, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 18

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of October 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive KELLY BLACK, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 19

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive MELANIE SPEECH, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 20

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive MICHAEL PEROFETA, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 21

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 20th day of December 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive OILAU MANUMA, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 22

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 1st day of December 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive OMAR FLORES, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 23

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 1st day of December 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive RICHARD MENDOZA, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 24

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 1st day of December 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive SALAMO MALAE, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 25

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive TAIFETU MILES, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 26

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 19th day of January 2024, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive VALERIE WIDMAIER, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

COUNT 27

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about and between the 16th day of September 2023 through the 2nd day of November 2023, both dates inclusive, commit the crime of INTENTIONAL THEFT OF WAGES FROM EMPLOYEE, to wit: Violating Section **487m(a)** of the Penal Code, a Felony, in that the said defendant did deprive WESLEY CHU, an employee of SF SAFE, of wages, gratuities, benefits, and other compensation in an amount greater than nine hundred fifty dollars (\$950), by unlawful means, with the knowledge that the wages, gratuities, benefits, and other compensation were due to the employee under the law.

THEFT BY EMBEZZLEMENT

COUNT 28

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, between the 15th day of July 2018 through the 17th day of November 2023, both dates inclusive, commit the crime of GRAND THEFT, to wit: Violating Section **487(a)** of the Penal Code, a Felony, in that the said defendant did willfully and unlawfully take money and personal property of a value exceeding Nine Hundred Fifty Dollars (\$950), to wit: at least \$107,501.11, the property of SF SAFE.

ALLEGATION OF THEFT EXCEEDING \$100,000 PURSUANT TO PENAL CODE SECTION 1203.045

It is further alleged that in the commission and attempted commission of the above felony offense, the said defendant, KYRA WORTHY, did unlawfully conduct and attempt to conduct a theft of a value exceeding one hundred thousand dollars (\$100,000) and that probation shall not be granted to any person convicted of a crime of theft of an amount exceeding one hundred thousand dollars (\$100,000).

FRAUDULENT INVOICES

COUNT 29

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 25th day of October 2023, commit the crime of PRESENTING A FRAUDULENT CLAIM TO A COUNTY OFFICER, to wit: Violating Section **72** of the Penal Code, a Felony, in that the said defendant did unlawfully and with the intent to defraud present for allowance and payment a false and fraudulent claim, bill, account, voucher, and writing, to wit: September 2023 invoice for “Mission Safe Streets” OEWD grant.

COUNT 30

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 20th day of November 2023, commit the crime of PRESENTING A FRAUDULENT CLAIM TO A COUNTY OFFICER, to wit: Violating Section **72** of the Penal Code, a Felony, in that the said defendant did unlawfully and with the intent to defraud present for allowance and payment a false and fraudulent claim, bill, account, voucher, and writing, to wit: October 2023 invoice for “Mission Safe Streets” OEWD grant.

COUNT 31

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 28th day of December 2023, commit the crime of PRESENTING A FRAUDULENT CLAIM TO A COUNTY OFFICER, to wit: Violating Section **72** of the Penal Code, a Felony, in that the said defendant did unlawfully and with the intent to defraud present for allowance and payment a false and fraudulent claim, bill, account, voucher, and writing, to wit: November 2023 invoice for “Mission Safe Streets” OEWD grant.

COUNT 32

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 9th day of January 2024, commit the crime of PRESENTING A FRAUDULENT CLAIM TO A COUNTY OFFICER, to wit: Violating Section **72** of the Penal Code, a Felony, in that the said defendant did unlawfully and with the intent to defraud present for allowance and payment a false and fraudulent claim, bill, account, voucher, and writing, to wit: December 2023 invoice for “Mission Safe Streets” OEWD grant.

INSUFFICIENT FUNDS

COUNT 33

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 19th day of July 2023, commit the crime of MANUFACTURING A DOCUMENT OR DRAWING FROM AN ACCOUNT WITH INSUFFICIENT FUNDS, to wit: Violating Section **476a(a)** of the Penal Code, a Felony, in that the said defendant did willfully, unlawfully, and with the intent to defraud, make, draw, utter, and deliver any check, draft and order for the payment of money in the sum of \$12,000.00, drawn upon any bank, depository, person, firm and corporation, to wit: SAN FRANCISCO POLICE CREDIT UNION, knowing at the time of such making, drawing, uttering, and delivering that she had not sufficient funds in, and credit with, said entity to meet the said check and draft and all other checks, drafts, and orders upon such funds then outstanding in full upon its presentation for payment; the said defendant at all of said times having the intent to defraud WELLS FARGO BANK.

COUNT 34

The said defendant, KYRA WORTHY, did in the City and County of San Francisco, State of California, on or about the 20th day of July 2023, commit the crime of MANUFACTURING A DOCUMENT OR DRAWING FROM AN ACCOUNT WITH INSUFFICIENT FUNDS, to wit: Violating Section **476a(a)** of the Penal Code, a Felony, in that the said defendant did willfully, unlawfully, and with the intent to defraud, make, draw, utter, and deliver any check, draft and order for the payment of money in the sum of \$65,000.00, drawn upon any bank, depository, person, firm and corporation, to wit: SAN FRANCISCO POLICE CREDIT UNION, knowing at the time of such making, drawing, uttering, and delivering that she had not sufficient funds in, and credit with, said entity to meet the said check and draft and all other checks, drafts, and orders upon such funds then outstanding in full upon its presentation for payment; the said defendant at all of said times having the intent to defraud WELLS FARGO BANK.

FACTORS IN AGGRAVATION PURSUANT TO CALIFORNIA RULE OF COURT 4.421(a)

- (8) The manner in which the crime was carried out indicates planning, sophistication, or professionalism;
- (9) The crime involved an attempted or actual taking or damage of great monetary value; and
- (11) The defendant took advantage of a position of trust or confidence to commit the offense.

AFFIDAVIT OR DECLARATION ATTACHED HERETO AND INCORPORATED HEREIN SETS FORTH THE UNDERLYING FACTS ESTABLISHING PROBABLE CAUSE FOR THE ARREST OF THE DEFENDANT NAMED IN THIS COMPLAINT.

I state, declare, verify and certify under the penalty of perjury that the foregoing is true and correct. Executed in San Francisco, California, on July 23, 2024.



Mike Reilly, Star #
District Attorney Inspector

Pursuant to Penal Code sections 1054 through 1054.7, the People request that, within fifteen (15) days, the defendant and/or his attorney disclose: (A) The names and addresses of persons, other than the defendant, he/she intends to call as witnesses at trial, together with any relevant written or recorded statements of those persons, or reports of the statements of those persons, including any reports or statements of experts made in connection with the case, and including the results of physical or mental examinations, scientific tests, experiments, or comparisons which the defendant intends to offer in evidence at the trial; (B) Any real evidence which the defendant intends to offer in evidence at the trial. This request is a continuing request, to cover not only all such material currently in existence, but all material which comes into existence to the conclusion of this case.

MARSY'S LAW

Information contained in the reports being distributed as discovery in this case may contain confidential information protected by Marsy's Law and the amendments to the California Constitution Section 28. Any victim(s) in any above referenced charge(s) is entitled to be free from intimidation, harassment, and abuse. It is unlawful for defendant(s), defense counsel, and any other person acting on behalf of the defendant(s) to use any information contained in the reports to locate or harass any victim(s) or the victim(s)'s family or to disclose any information that is otherwise privileged and confidential by law. Additionally, it is a misdemeanor violation of California Penal Code § 1054.2(a)(3) to disclose the address and telephone number of a victim or witness to a defendant, defendant's family member or anyone else. Note exceptions in California Penal Code § 1054.2(a)(2).