§ 331.2. Discovery; upon demand of a party. 1. Except to the extent protected by court order, upon a demand to produce by a respondent, the presentment agency shall disclose to the respondent and make available for inspection, photography, copying or testing, 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;

(c) any written report or document, or portion thereof, 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 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; and

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

2. (a) The presentment agency shall make a diligent, good faith effort to ascertain the existence of property demanded pursuant to subdivision

one 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.

(b) In any case in which the property includes grand jury testimony, the presentment agency shall forthwith request that the district attorney provide a transcript of such 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 section three hundred twenty-five of the judiciary law releasing a transcript of testimony to the presentment agency.

3. Except to the extent protected by court order, upon demand to produce by the presentment agency, the respondent shall disclose and make available for inspection, photography, copying or testing, subject to constitutional limitations:

(a) any written report or document, or portion thereof, concerning a physical examination, or scientific test, experiment, or comparison, made by or at the request or direction of, the respondent, if the respondent intends to introduce such report or document at a hearing, or if the respondent has filed a notice of defense of mental disease or defect pursuant to section 335.1 and such report or document relates thereto, or if such report or document was made by a person, other than respondent, whom respondent intends to call as a witness at a hearing; and

(b) any photograph, drawing, tape or other electronic recording which the respondent intends to introduce at a hearing.

4. Except to the extent protected by court order, upon demand to produce by the presentment agency, a respondent who has served a written notice, under section 335.1, of intention to rely upon the defense of mental disease or defect shall disclose and make available for inspection, photography, copying or testing, subject to constitutional limitations, any written report or document, or portion thereof, concerning a mental examination made by or at the request or direction

of the respondent.

5. The respondent shall make a diligent good faith effort to make such property available for discovery pursuant to subdivisions three and four where it exists but the property is not within his possession, custody or control, provided that the respondent shall not be required to obtain by subpoena duces tecum demanded material that the presentment agency may thereby obtain.

6. Notwithstanding the provisions of subdivisions one through five, the presentment agency or the respondent, as the case may be, may refuse to disclose any information which he reasonably believes is not discoverable by a demand to produce, or for which he reasonably believes a protective order pursuant to section 331.5 would be warranted. Such refusal shall be made in writing, which shall set forth the grounds of such belief as fully as possible, consistent with the objective of the refusal. The writing shall be served upon the demanding party and a copy shall be filed with the court.