

**THOMAS W. SNEDDON, JR.**  
District Attorney

**MARNIE B. PINSKER**  
Assistant Director



**PATRICK J. MCKINLEY**  
Assistant District Attorney

**CHRISTIE SCHULTZ**  
Assistant District Attorney

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**FROM:** Thomas W. Sneddon, Jr., District Attorney  
Santa Barbara County

**DATE:** November 20, 2003

**RE:** Clarification of Remarks about Compelling Minors to Testify

Following yesterday's Press Conference, I received some inquiries relating to my remarks regarding legislation enacted as a result of the 1993-94 Michael Jackson investigation. These inquiries and my remarks focused on the law related to compelling a minor to testify.

At the outset it is important to reemphasize that neither Code of Civil Procedure section 1219.5 nor Civil Code section 1669.5 is really of concern in the existing case against Michael Jackson. As it was made very clear at the Press Conference yesterday, the victim(s) are cooperative and there is not currently a civil case pending and none is anticipated.

Nevertheless, my use of the word "compel" to describe the effect of the new legislation was unfortunate and not legally correct. The following is the clarification given to them yesterday.

It was not my intention during the Press Conference to generally address the laws involving the compelling of a minor to testify, but to address the practical way in which those laws prior to the investigation have changed to remove some of the financial incentive created by a large civil settlement which discourages eventual cooperation in any criminal case. In my attempt to describe the practical, positive legislative changes since the prior investigation, the word "compel" was not the best choice of words. While I believe the import of the point I was trying to make and its relationship to the current investigation and charges that will be filed is exactly the same, there is clearly a legal difference.

The Code of Civil Procedure section 1219.5 deals with the refusal of minors to take an oath and the sanctions that are available to a court to enforce a minor's testimony. This section has not changed since 1984. Prior to 1984, a minor witness could be incarcerated as a sanction when they refuse to testify. As a result of the public criticism that followed an incident in Northern California, the amendment to this section was made so that the sanction of incarceration was removed to compel a minor's testimony. The practical effect of the removal of incarceration as a sanction was to empower a minor to refuse to testify. As a result, it became widely known and accepted that without the ability to compel the cooperation of a

minor victim, there was no ability to prosecute unless there were independent witnesses. This was the legal and practical situation that existed at the time of the 1993-94 investigation into the prior allegations involving Mr. Jackson and the multi-million dollar civil suit that resulted. As I correctly stated yesterday, everybody connected with the investigation, both within the Los Angeles District Attorney's Office and the Santa Barbara District Attorney's Office, and the law enforcement agencies connected to that investigation, after being informed that the victim did not wish to participate in a criminal prosecution, knew it was impossible to compel his testimony and for that reason both Los Angeles District Attorney Al Garcetti and I characterized the investigation as still open, but inactive.

Yesterday I also referenced a legislative change enacted in direct response to the 1993-94 investigation. That section is Civil Code section 1669.5. The practical effect of the legislation is to give the District Attorney the ability to intervene in any civil settlement calculated to remove from the victim of an unlawful sex act the financial incentive not to cooperate. The point that was trying to be made in the Press Conference was that now that the District Attorney has the ability to intervene in these suits. It removes an obstacle to cooperate with the law. The practical difference is that it is more difficult to buy minor victims and removes a powerful incentive not to cooperate.