

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN
POLICE REVIEW BOARD

) CIVIL DIVISION
)
) G.D. NO. 10-1338
)
) MOTION TO ENFORCE
) COMPLIANCE WITH
) SUBPOENA
)
) Code:
)
) Filed on behalf of:
) Citizen Police Review Board
)
) Counsel of Record for this Party:
)
) William F. Ward, Esquire
) PA I.D. No. 25266
) Hugh F. McGough, Esquire
) PA I.D. No. 66025
) WARD McGOUGH, LLC
) Suite 2312 Koppers Building
) 436 Seventh Avenue
) Pittsburgh, PA 15219
) (412) 395-1245

DEPT. OF COURT RECORDS
CIVIL/FAMILY DIVISION
ALLEGHENY COUNTY

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FILED

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN POLICE
REVIEW BOARD

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CIVIL DIVISION

G.D. NO.

MOTION TO ENFORCE COMPLIANCE WITH SUBPOENA

AND NOW COMES Movant, the Citizen Police Review Board, by and through its solicitor, Ward McGough, LLC, and respectfully files this Motion to Enforce Compliance with Subpoena.

The Motion will be presented, with legal argument, to the Honorable R. Stanton Wettick, Jr., Courtroom 818 of the City-County Building, 414 Grant Street, Pittsburgh, PA 15219, on Friday, February 5, 2010, at 12:05 p.m.

The Movant respectfully avers as follows:

Background

1. This Motion seeks an Order of Court enforcing a subpoena issued to Nathan E. Harper, Chief of the Pittsburgh Bureau of Police, for the production of documents related to policies, procedures, planning, training, supervision and deployment affecting police/civilian encounters related to the September 24-25, 2009, summit in Pittsburgh of the Group of 20 ("G-20") Finance Ministers and Central Bank Governors. A copy of the subpoena, issued December 1, 2009, is attached as Exhibit 1.

2. During and after the G-20, approximately 200 people were arrested, many of them during attempts by police officers to disperse crowds. Pittsburgh Police providing security for the G-20 were assisted by approximately 2,000 out-of-town officers and Pennsylvania State Police. The visiting officers were specially deputized to exercise police powers in the City of Pittsburgh. While on duty related to the G-20, various officers exposed numerous citizens to pepper spray, shot others with less-than-lethal ammunition described variously as "rubber bullets" or "bean bags," and repeatedly used newly acquired sonic weapons, known as Long Range Acoustical Devices ("LRADs"), to blast high volume commands at crowds and at on-lookers.

3. In the aftermath of the G-20, the Citizen Police Review Board ("CPRB" or "Board") received multiple complaints of police misconduct, including allegations of excessive use of force. At the Board's regular meeting on October 27, 2009, it authorized a Board-initiated investigation into the matter.

4. Pittsburgh's independent CPRB was created by voters in a referendum election held on May 20, 1997. The voters approved amendment of Article 2 of the City's Home Rule Charter ("the Charter") vesting the CPRB with certain investigatory and advisory powers. The Charter amendment empowered Pittsburgh City Council to enact an ordinance ("the Ordinance") providing for independent, civilian review of City Police Bureau policies and actions. A copy of Article 2 of the Charter, as amended, and a copy of the Ordinance are attached, respectively, as Exhibits 2 & 3.

5. The 1997 referendum creating the CPRB was approved by the electorate approximately one month after the City of Pittsburgh voluntarily entered into a Consent Decree with the United States Department of Justice requiring reform of Police Bureau operations. The

Decree, and a separate federal lawsuit filed by the local chapters of the American Civil Liberties Union (“ACLU”) and National Association for the Advancement of Colored People (“NAACP”), alleged a “pattern or practice” of illegal and unconstitutional conduct by Pittsburgh Police officers. The City denied the allegations, but entered into the Decree, consenting to Department of Justice oversight, and monitoring, of Police Bureau policies and actions for a minimum of five (5) years. The Decree was lifted from the Police Bureau in September of 2002, and from the City’s Office of Municipal Investigations (“OMI”), which investigates citizen complaints of police misconduct, the following year.

6. Since the Consent Decree was lifted in 2003, the CPRB remains as the sole external, civilian entity exclusively mandated to review Police Bureau policies and actions, including the unbiased and complete review of citizen complaints against officers.

**The CPRB is Authorized to Investigate Individual Complaints of Police Misconduct and
Broader Issues Affecting Police-Community Relations**

7. Pursuant to the “Declaration of Policy” in the CPRB’s enabling Ordinance, the Board is charged with: (1) striving to prevent future incidents of police misconduct and abuses of civil rights; (2) promoting public confidence in law enforcement through the Board’s capacity to investigate allegations of police misconduct; (3) holding public hearings in the course of such investigations; and (3) making recommendations “concerning patterns of police misconduct, if such are found.” Ordinance, § 661.03(c).

8. Section 662.05 of the Ordinance, titled “Powers, Duties and Limitations of Board,” states, in pertinent part:

- (a) The Board shall provide advice and recommendations to the Mayor and the Chief of Police on policies and actions of the Police Bureau with the purpose of improving the ability of police personnel to carry out their duties,

and to improve the relationship between the Police Bureau and the community.

(b) The Board shall receive all complaints alleging police misconduct and shall have full discretion to select appropriate individual incidents to investigate and broader issues to study regarding community and police relations.... (emphasis added)

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(o) The Board, upon motion receiving an affirmative vote of at least four (4) members, may:

(1) Initiate investigations of incidents of Police Misconduct for which no complaint has been filed;

(2) Initiate studies, investigations, hold public hearings and make recommendations on policy matters, including improvement of the relationship between the police department and the community, police training, hiring and discipline. (emphasis added)

The Charter and the Ordinance Expressly Confer Subpoena Power on the CPRB

9. There is express authority in both the Charter and the Ordinance for the subpoena power that the CPRB seeks to enforce in this Motion.

10. Section 229 of the Charter, titled "Powers of Independent Citizen Review Board," states, in pertinent part:

The Board shall:...(d) Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any other matter under investigation or any questions before the board and do all other things necessary to fulfill its purpose. (emphasis added)

11. Further, Section 662.05(m) of the Ordinances states:

(m) In order to accomplish its goals as set forth above, and consistent with the limitations of § 661.03 above, the Board shall have full power to request the Police Bureau to produce appropriate personnel or subpoena such personnel for interview, which the Police Bureau shall cooperate with and make a good faith effort to accommodate, and to request or subpoena relevant documents which it agrees to keep confidential, including, but not limited to the following, for review:

- (1) OMI files, department management files, ethics and accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;
- (2) Police paperwork produced by the Police Bureau for the purpose of investigating suspects or to aid in their prosecution;
- (3) Personnel files of officers including annual performance evaluations, records documenting training or records documenting mandatory counseling;
- (4) Police Directives;
- (5) All general summaries, statistical compilations and other internal reports on shootings, injuries, complaints of abuse, training and any other issues related to the work of the Board;
- (6) Relevant information and data contained in the automated early warning system specified in the Consent Decree between the City and the U.S. Department of Justice;
- (7) Written reports required to be filed by police officers pursuant to the Consent Decree between the City and the U.S. Department of Justice concerning use of force, warrantless searches, body cavity searches or strip searches and warrantless seizures of property (excluding towing of vehicles) and traffic stops;
- (8) Written reports, records and data maintained by the independent auditor appointed pursuant to the Consent Decree between the City and the U.S. Department of Justice;
- (9) Status reports filed by the City with the independent auditor and the U.S. District Court for the Western District of Pennsylvania pursuant to the Consent Decree between the City and the U.S. Department of Justice. (emphasis added)

12. The CPRB's subpoena power also flows from Section 662.07 of the Ordinance, titled "Finding of Necessity":

Subject to applicable law, it shall be the duty of the Police Bureau to provide such assistance as the Board may reasonably request, to cooperate fully with investigations by the Board, and to provide the Board upon request records, personnel and other materials which are necessary for the investigation of complaints submitted pursuant to this Chapter. Upon finding by the Board that documents or personnel requested have not been forthcoming or that necessity requires the production of witnesses and/or documents, the Board may issue subpoenas for such witnesses or documents as it may deem appropriate. However, no document or information obtained through formal or informal process or any member of its staff shall be released to the public unless such document is deemed by the Board to be a public record under the Pennsylvania Right to Know Act, 65 P.S. § 66.1, *et seq.* (emphasis added)

13. Both the Charter and the Ordinance provide for the CPRB to apply to the Court of Common Pleas of Allegheny County to enforce a CPRB Subpoena. Charter § 808 & § 229(d); Ordinance §662.05(j).

Events Preceding Issuance of the Subpoena

14. The subpoena that is the subject of this Motion was issued December 1, 2009, by Marsha V. Hinton, Chair of the CPRB.

15. The CPRB's efforts to assist the Police Bureau in preparing for the G-20 commenced soon after President Obama announced on May 28, 2009, that Pittsburgh would host the summit.

16. The CPRB, in conjunction with Pittsburgh City Council's Committee on Public Safety, sponsored a public hearing on July 28, 2009, in City Council Chambers. The subject was police/community relations during the G-20, focusing in particular on balancing public safety concerns with the First Amendment rights of citizens, including the many demonstrators who typically are drawn to such events. Experts on state-of-the-art police methods to control crowds, and de-escalate possible tensions, testified at the hearing, which was broadcast on the City's cable television station and covered in the news media.

17. On October 20, 2009 and November 10, 2009, in the aftermath of the G-20, the CPRB convened public hearings. They were held in the neighborhoods of Oakland and Lawrenceville, where the majority of the G-20 arrests occurred. More than 50 people testified at the two hearings. Some speakers were supportive of police officers' handling of a difficult situation, others were critical of police actions.

18. At the Board's regular monthly meeting on October 27, 2009, it authorized a Board-initiated investigation of the policies, procedures and circumstances of the police/citizen encounters surrounding the G-20.

19. By memo dated November 5, 2009, to Kathy Kraus, Manager of OMI, the CPRB requested two categories of information. The first category of requests ("the Category One Documents") was for arrest reports and related documents pertaining to 29 individual citizen arrests connected to G-20 activities. The request identified each of the arrests by the unique Incident Number assigned to it by the Police Bureau. To prepare the request, the CPRB found the Incident Numbers, plus the names of all arrestees and the charges filed against them, listed on publicly available sources, including the City of Pittsburgh Department of Public Safety's own "G-20 Safety" website. The CPRB's memo requesting the Category One Documents appears as Exhibit A in the subpoena, attached to this Motion as Exhibit 1.

20. The second category of information ("the Category Two Documents") requested by the Board on November 5, 2009, involved operational documents, starting with a "master roster of all police officers serving under Pittsburgh command during the G-20." The CPRB's request for the Category Two Documents appears as Exhibit B in the subpoena, attached to this Motion as Exhibit 1.

(a) The CPRB's requested Category Two documents also included, but was not limited to: (i) Which officers were authorized to carry particular weapons and what was the criteria to receive such authorization; (ii) How the chain of command was organized and who, in particular, was authorized to issue certain orders; (iii) G-20 related police training records; (d) A summary of injuries reported by officers; and (iv) Copies of orders, authorizations and procedures

pertaining to the use of various crowd control methods including chemical agents, instruments of less-than-lethal force, and the LRAD.

(b) The CPRB also requested copies of the following: (i) The police operational plans for Oakland and Lawrenceville; (ii) The Emergency Declaration by the Mayor; (iii) Mutual Aid Agreements and/or contracts with visiting police agencies; (iv) All permit applications submitted by groups seeking to march or demonstrate during the G-20; (v) The "officer's handbook" that was distributed to all visiting officers; and (vi) All Subject Resistance/Use of Force reports filed by officers detailing the discharge of projectiles, the deployment of chemical agents, and/or reports by officers regarding the use of other levels or types of force.

(c) The Category Two Documents requested by the CPRB also included copies of intelligence reports relating to identified security risks or threats.

21. By letter dated November 9, 2009, to Paul Donaldson, Deputy Chief of the Pittsburgh Bureau of Police, the CPRB provided a second copy of the "G-20 Related Document and Information Request" described in the prior paragraph. The letter, signed by Elizabeth C. Pittinger, Executive Director of the CPRB, stated, in pertinent part:

On October 27, 2009, at their regularly scheduled business meeting, the CPRB authorized an inquiry into the policies and procedures that guided the numerous encounters between police and civilians during the G-20 period in Pittsburgh....The requested materials are critical to our ability to understand the dynamics affecting the police actions and evaluate the outcomes.

Director Pittinger requested that the materials be forwarded to the Board no later than December 2, 2009. A copy of her letter to Deputy Chief Donaldson is attached as Exhibit 4.

22. By letter dated November 25, 2009, Paul D. Krepps, Esquire, of Marshall, Dennehey, Warner, Coleman & Goggin, representing "the City of Pittsburgh, including all police

officers working the G-20,” issued a blanket denial of the documents requested by the CPRB.

The letter was directed to Director Pittinger, and stated in pertinent part:

I have come to the conclusion that CPRB’s requests are excessively burdensome and represent an attempt to extend the authority of CPRB far beyond its scope of responsibility and purpose. Therefore, neither the Bureau of Police nor OMI will provide CPRB with the requested documents.

A copy of Mr. Krepps' November 25, 2009, correspondence is attached as Exhibit 5.

Issuance of the Subpoena and CPRB Efforts to Facilitate Compliance by the Police Bureau

23. At the Board’s regular meeting on December 1, 2009, Director Pittinger briefed members on the status of the City’s response to the Board’s request for documents and information. The Board found that the City had failed to be forthcoming in providing required documents, and authorized issuance of the subpoena attached as Exhibit 1. The Return of Service confirming service on Chief Harper on December 3, 2009 is attached as the last page of Exhibit 1.

24. By letter to Mr. Krepps dated December 7, 2009, the solicitor for the CPRB directed Mr. Krepps’ attention to the Charter and Ordinance provisions authorizing the Board to require the production of evidence relating to an investigation, and granting the Board discretion to study issues regarding community and police relations. A copy of the December 7, 2009, letter is attached as Exhibit 6.

25. The undersigned solicitor for the CPRB and Mr. Krepps conferred in person on December 11, 2009, to negotiate an acceptable response by Chief Harper and the Police Bureau to the CPRB subpoena. The meeting was approximately 90 minutes in length, and included a paragraph by paragraph review of the Category Two documents requested in Exhibit B of the subpoena. Repeatedly, Mr. Krepps indicated that providing many of the requested documents would be “no problem.” Based on that meeting, the undersigned provided an optimistic report to

Director Pittinger that the Police Bureau would comply with the subpoena in good faith on or before the deadline of December 16, 2009.

26. The undersigned phoned Mr. Krepps on December 16, 2009, regarding the status of the Police Bureau's compliance with the subpoena. Mr. Krepps was unavailable. He did not return the call until December 21, 2009, at which time he said documents responding to the subpoena would be delivered before the end of the business day.

27. Under a cover letter from Mr. Krepps dated December 21, 2009, Chief Harper, through his counsel, failed to provide any of the Category Two Documents requested in the subpoena. Mr. Krepps' letter omitted any mention of the in-person negotiation between counsel on December 11, 2009, and provided no basis for the non-compliance with the subpoena. A copy of Mr. Krepps' December 21, 2009, letter is attached as Exhibit 7 (CPRB has redacted from the letter's second paragraph the names of five citizen complainants to protect their privacy).

(a) The Ordinance expressly requires the Police Bureau to provide the CPRB, upon request, with the majority of the Category Two Documents contained in the subpoena. Specifically, Section 662.05(m) states the Bureau shall provide documents including, but not limited to, (i) police paperwork produced by the Bureau to investigate suspects or aid in their prosecution; (ii) records documenting training; (iii) Police Directives; (iv) internal reports on shootings and injuries; and (v) use of force reports and search reports.

28. With respect to the Category One Documents, on December 21, 2009, Chief Harper, through Mr. Krepps, provided heavily redacted police reports pertaining to five of the 29 Incident Numbers for which the CPRB requested information. Mr. Krepps offered no basis for the redaction, nor for withholding the paperwork pertaining to the other 24 arrestees.

(a) The Ordinance expressly provides for the Police Bureau to provide the CPRB all of the subpoenaed Category One Documents, comprising Incident, Arrest and Investigative Reports and Subject Resistance Reports. Specifically, Section 662.05(m)(2) states the Bureau shall provide "Police paperwork produced by the Police Bureau for the purpose of investigating suspects or to aid in their prosecution." Further, Section 662.05(m)(7) requires the production of use of force reports, which includes subject resistant reports.

29. There is evidence of a vexatious, obstructionist basis for the Bureau's December 21, 2009, non-compliance with the subpoena. Prior to issuance of the subpoena, and in the routine course of operations, OMI had already provided the CPRB with un-redacted copies of some of the Category One Documents produced on December 21st. The subsequent, ill-considered effort to redact the reports, thus denying the CPRB basic information typically provided upon a simple request, suggests a desire to impede CPRB's investigation of G-20 police policies and actions.

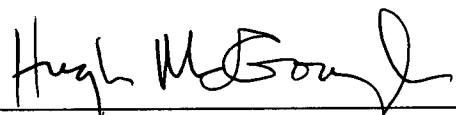
Conclusion

29. The City has offered no legal basis for its refusal to produce the subpoenaed documents and information, and its refusal to do so is in defiance of a lawfully issued subpoena of the CPRB.

WHEREFORE, it is respectfully requested that this Honorable Court issue an Order enforcing the CPRB subpoena issued to Chief Harper by compelling his compliance. An appropriate Order is attached.

Respectfully submitted,

WARD McGOUGH, LLC

A handwritten signature in black ink, appearing to read "Hugh McGough", written over a horizontal line.

William F. Ward, Esquire
PA I.D. No. 25266
Hugh F. McGough, Esquire
PA I.D. No. 66025
Suite 2312 Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 395-1245

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Motion to Enforce Compliance with Subpoena was served, by hand delivery, upon the following counsel this 21st day of January, 2010.

Daniel D. Regan, Esquire
Solicitor
City of Pittsburgh Dept. of Law
414 Grant Street
313 City-County Building
Pittsburgh, PA 15219

Paul D. Krepps, Esquire
Marshall, Dennehey, Warner, Coleman & Goggin
Suite 2900
600 Grant Street
Pittsburgh, PA 15219

A handwritten signature in black ink, reading "Hugh F. McGough". The signature is written in a cursive style with a large, looping "H" and "M".

Hugh F. McGough, Esquire
PA I.D. No. 66025

SUBPOENA

CITIZEN POLICE REVIEW BOARD

816 Fifth Avenue, Suite 400, Pittsburgh PA 15219

412-765-8023 (V) 412-765-8059 (F)

CPRB #:325-09

Inquiry into Community/Police Relations during the G-20 period of 9/19/09 through 9/26/09. Authorized 10/27/09

This Subpoena is issued pursuant to the authority of the CITIZEN POLICE REVIEW BOARD at Title Six, Article VI of the Pittsburgh Code as authorized by Sections 228-230 of the Home Rule Charter of the City of Pittsburgh and in accord with the Rules and Operating Procedures of the CITIZEN POLICE REVIEW BOARD.

TO: Nathan E. Harper, Chief of Police

Pittsburgh Bureau of Police, 1203 Western Avenue, Pittsburgh A 15233

☒ You are hereby directed to deliver the following to the CITIZEN POLICE REVIEW BOARD at 816 Fifth Avenue, Suite 400, Pittsburgh PA 15219 no later than **5:00 p.m. on 12/16/09**:

Documents and information related to policies, procedures, planning, training, supervision, deployment, outcomes and related influences and factors affecting police/civilian encounters during the G-20 period of 9/19/09 through 9/26/09 as detailed in the attached Exhibits:

Exhibit A: List of specific reports related to 29 specified incidents originally directed to Ms. Kathy Kraus (Manager, Office of Municipal Investigations) in a request dated 11/5/09.

Exhibit B: "G-20 Related Document and Information Request of the Pittsburgh Bureau of Police" originally submitted to the attention of Dep. Chief Paul Donaldson in a request dated 11/9/09.

This subpoena shall remain in effect until the issuing authority releases you. Failure to comply with this subpoena may result in the CPRB petitioning the Court of Common Pleas for enforcement of it and may subject you to contempt of court charges.

Issued on December 1, 2009 by

Marsha V. Hinton, Chair

EXHIBIT

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EXHIBIT A

To: Kathy Kraus
From: Beth Pittinger
Date: 11/5/09
Subject: Document Request G-20 Related Incidents

The CPRB authorized an inquiry into the policies, procedures and circumstances of police/citizen encounters during the G-20 period. Accordingly, I am requesting copies of the following reports and ask that they be forwarded at your earliest convenience but no later than Wednesday, 11/25/09.

If you have any questions, please call me, 412-765-8023.

Thank you.

Elyah C. Pittinger

11/05/09

The CPRB Requests copies of the following
Incident, Arrest, Investigative Reports and Subject Resistance Reports related to G-20:

Incident #		Incident #	
09-227084		09-228115	
09-227109		09-228126	Arrest report rec'd - need 3.0
09-227134		09-228127	
09-227149		09-228164	
09-227209		09-228204	
09-227219		09-228260	
09-227280		09-228296	
09-227315		09-228297	
09-227353		09-228299	
09-227420		09-228300	
09-227424		09-228344	
09-227465		09-228347	
09-227483		09-228379	
09-227511		09-228380	
09-227649	Arrest report rec'd - need 3.0		

G-20 Related Document and Information Request of the Pittsburgh Bureau of Police

The CITIZEN POLICE REVIEW BOARD has authorized a formal inquiry into the policies and procedures guiding law enforcement and security measures before, during, and after the September 2009 meeting of the G-20 in Pittsburgh.

Accordingly, as executive director of the CITIZEN POLICE REVIEW BOARD, I am requesting that the following documents and information be provided to me by the Pittsburgh Bureau of Police no later than Wednesday, December 2, 2009.

1. A master roster of all police officers serving under Pittsburgh command during the G-20 period of 9/19/09 through 9/26/09 with the following details *(electronic form preferred to allow convenience of grouping to assignments)*:
 - a. Full Name of the officer
 - b. G-20 ID number
 - c. Original jurisdiction of employment and ID number within original jurisdiction
 - d. Assigned G-20 shift/detail/unit
 - e. Period of official service in Pittsburgh
2. Roster of all officers authorized to carry less lethal weapons during the G-20 operation:
 - a. Please include the pre-requisite criteria necessary to receive authorization
 - b. Full Name of each officer
 - c. G-20 ID number
 - d. Original jurisdiction of employment and ID number within jurisdiction
 - e. Assigned G-20 shift/detail/unit
3. The chain of command by operational duty assignment, detail, and sector (if distinguished from assigned detail).
 - a. Please identify and include each operational division.
 - b. Please identify by name, rank, and G-20 ID number, the individual supervisors of each division, unit, and detail.

- c. Please identify by name, rank, and G-20 ID numbers, the designated chain of command with the authority:
 - i. To declare an unlawful assembly
 - ii. To authorize an emergency police response
 - iii. To order mass arrests and use of force.

4. G-20 related police training records:

- a. Subject matter of each session
- b. Identify each instructor by name, agency affiliation, and instructional topic.
- c. Length of each topical session (please distinguish classroom and field training sessions)
- d. Objectives of the training session
- e. Roster of attending officers
 - i. Full Name
 - ii. G-20 ID number
 - iii. Original jurisdiction of employment and ID number within original jurisdiction

5. Summary of injuries reported by officers describing *(no personally identifiable information is sought by this request)*:

- a. The nature of each reported injury
- b. The severity of each reported injury
- c. The stated cause of each reported injury
- d. Whether emergency treatment was rendered in a hospital emergency department
- e. Please identify mode of transportation provided for each injury requiring emergency treatment (EMS, personal vehicle or police transport)

6. A copy of the orders, authorization, and procedures related to:

- a. Accountability measures (ID armbands, arrest photos, articulated supervisory measures ordered to assure adherence to accountability measures).
- b. The use of chemical agents for crowd/riot control
- c. The use of LRAD for crowd/riot control
- d. The use of canine for crowd/riot control
- e. The use of all instruments of force and criteria for their deployment
- f. The log of authorization for incremental elevations of force deployed
- g. The operative definition of "unlawful assembly" as applied to G-20.

7. Please provide deployment reports and/or logs related to the Long Range Acoustic Device (LRAD) which include:

- a. Locations of each LRAD deployment
- b. Duration of active LRAD warning tone in each deployment
- c. Decibel setting for the LRAD hailing function
- d. Decibel setting warning tone for each deployment

8. Inventory of equipment purchased and used:

- a. Inventory of all new equipment and munitions purchased under the G-20 umbrella (include personal protective equipment, LRADs, vehicles, chemical agents, less lethal munitions, etc.)
- b. Beginning inventory of all less lethal munitions by type and designated for the operation.
- c. Ending inventory of all less lethal munitions by type and designated for the operation.

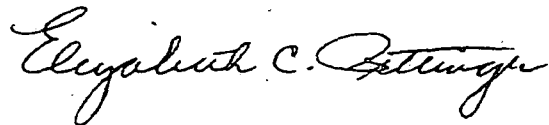
9. A copy of the operational dispersal plan for Oakland that includes:

- a. Distinctions (if any) for the 9/24/09 and 9/25/09 incidents
- b. Unit assignments: staging and deployment posts
- c. Identity of supervisors for each unit

- d. Designated (or intended) routes of egress for dispersing people
 - e. Tactical protocol for the operations
10. A copy of the operational plan for Lawrenceville on 9/24/09 that includes:
- a. Unit assignments: staging and deployment posts
 - b. Identity of supervisors for each unit
 - c. Designated (or intended) routes of egress for dispersing people
 - d. Tactical protocol for the operations
11. A copy of the Emergency Declaration by the Mayor.
12. A copy of all mutual aid agreements and/or contracts executed with any and all visiting agencies providing police officers and/or police support.
13. A copy of the insurance policy covering the City's risks related to G-20 security and law enforcement activities.
14. Complete list of demonstration, assembly, protest and march permit applications with following status per application:
- a. Name of applicant
 - b. Date received by the City and name of person who received the application
 - c. Disposition of Application
 - d. Date of disposition
 - e. Person effecting the disposition of the application
 - f. Litigation outcome of the disposition, if applicable
15. A copy of the officer's handbook that was distributed to visiting officers.
16. Copies of intelligence reports and/or briefings and/or logs related to G-20 security risks or threats conveyed to commanders, supervisors and police officers:
- a. In the four weeks prior to the 9 day G-20 period

- b. Immediately prior to the declarations of unlawful assemblies on 9/24 and 9/25.
- 17. Copies of all arrest and related investigative reports related to G-20 operations filed during the 9 day G-20 period.
- 18. Copies of all Subject Resistance/Use of Force reports filed by venue and/or individual arrests of record:
 - a. Please include projectile discharge reports for all projectiles fired
 - b. Please include deployment reports for OC vapor and smoke grenades
 - c. If the Subject Resistance report does not include documentation of medical clearance for those affected by gas or smoke or hit by baton rounds please include the investigative report documenting same.
- 19. Please provide a copy of any internal review reports on G-20 operations, including the report presented to the National Policing Improvement Agency in the UK.

Submitted by:



Elizabeth C. Pittinger
Executive Director CPRB

Return of Service

(*Mrs Nora Bolla
Secretary*)

Subpoena served on:

Method of service (must be indicated):

☒ Personal service on addressee:

Date: _____ Time: _____ Place: _____

☐ US Postal Service, Certified and RRR # _____ mailed on _____ to address: _____

☒ Personal service on employer or other proxy for addressee:

Date: 12-3-09 Time: 9:00 A.M.

Accepted by: Name: NORA BOLLA

Place: 1203 WESTERN AVE (Headquarters)

Relationship: SECRETARY

(Delivery by facsimile, e-mail or other electronic, non-personal means, except as noted above, will not constitute proper service of this subpoena.)

By my signature appearing below I, KATHLEEN CARSON, certify that I
Name of person serving notice

personally served a copy of this subpoena to the identified party in the manner described above.

Kathleen Carson
Signature of person serving notice

CITIZEN POLICE REVIEW BOARD
CITY OF PITTSBURGH
COUNTY OF ALLEGHENY
COMMONWEALTH OF PENNSYLVANIA

ISSUED TO:

NATHAN E. HARPER
CHIEF OF POLICE
PITTSBURGH BUREAU OF POLICE
1203 WESTERN AVENUE
PITTSBURGH PA 15233

SUBPOENA

CPRB NO. 325-09

INQUIRY INTO RELATIONS BETWEEN
THE COMMUNITY AND POLICE
DURING THE G-20 PERIOD OF
9/19/09 THROUGH 9/26/09

CPRB
PITTSBURGH

ARTICLE 2 EXECUTIVE BRANCH**§ 201. THE MAYOR.**

The executive, administrative and law enforcement powers of the City shall be vested in the mayor. The mayor shall control and be accountable for the executive branch of city government, as provided by this charter.

§ 202. QUALIFICATIONS OF THE MAYOR.

The mayor shall have been a resident of the City for at least three years immediately preceding election, unless absent on the public business of the United States or this Commonwealth, and shall reside in the City while serving as mayor.

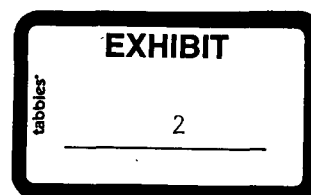
§ 203. ELECTION AND TERM OF THE MAYOR.

The mayor shall be chosen by the qualified electors of the City at the municipal election, and shall serve for a term of four years from the first Monday of January following election until a successor is elected and qualified.

§ 204. POWERS AND DUTIES OF THE MAYOR.

The mayor shall have the following additional powers and duties:

- a. to provide leadership for the advancement of the City and achievement of the goals set forth in the Preamble of this charter;
- b. to execute and enforce the provisions of this charter, the ordinances and resolutions of the City and the laws of this Commonwealth;
- c. to inform council at least once a year concerning the finances and general conditions of the City;
- d. to provide council with information concerning the administration and conditions of the City as requested by council;
- e. to call meetings with council when necessary;
- f. to submit proposed legislation to any member of council for introduction;
- g. to make long and short range plans for the improvement of the economic, physical and social condition of the City and its neighborhoods;
- h. to supervise all city employees and officers except as otherwise provided by this charter;
- i. to promote intergovernmental relations generally and specifically by:
 1. initiating as well as cooperating in working relationships with other governments, public and quasi-public agencies for the promotion of public services, economic development and cultural activities of mutual benefit to all concerned;



2. aggressively seeking funds for city programs from federal, state and county sources;
 3. making periodic public reports on the current status of the City's present and prospective relations with other governments, public and quasi-public agencies;
 4. The mayor shall present an annual report on the tax monies paid per capita and the citizens of the City of Pittsburgh to the federal government that is allocated to military spending. The report shall include an analysis of the impact of the military budget on the City's economy in relation to jobs and social services. The mayor shall advertise this analysis in two prominent daily newspapers in the City.
- j. to take such action as may be necessary to ensure that no inequities exist in any unit of city government and that each unit operates in a manner which provides every citizens full and equal access to government and a like opportunity to render goods and services to the City; and
- k. to perform other duties and exercise other powers as stated in this charter or assigned by law, ordinance or resolution.

§ 205. STATE OF THE CITY MESSAGE.

The mayor shall deliver a state of the city message each year in public. The state of the city message may be delivered at the same time as the mayor's budget proposal to council or within three months thereafter.

§ 206. VACANCY IN THE OFFICE OF THE MAYOR.

A vacancy in the mayor's office shall be filled at the next election permitted by law. The person elected shall be a resident of the city of Pittsburgh and shall take office as soon as possible after the certification of election and shall serve the remaining portion of the vacated term.

Until the vacancy is filled by an election, the president of council shall serve as Mayor. If the president of council accepts the position of mayor, he/she shall immediately relinquish his/her position as council member. Council shall then elect a new president of council.

If the president of council shall be unable or unwilling to serve as mayor, a mayor shall be elected by a majority vote of all the members of council. The person elected shall be a resident of the city of Pittsburgh. If a member of council is elected and accepts the position of mayor, he/she shall immediately relinquish his/her position as council member.

§ 207. DEPUTY MAYOR.

The mayor may appoint a non-elected major administrative unit head to act as deputy mayor while the mayor is necessarily absent from the City or temporarily disabled. The mayor shall file a notice of the appointment in the office of council. The deputy mayor shall have all the powers and discharge all the duties of the mayor during the mayor's absence or temporary disability except the power of appointment or removal. The deputy mayor shall serve without additional compensation and post bond with the controller in an amount approved by council.

§ 208. ORGANIZATIONAL STRUCTURE.

All units of government, except those mandated by this charter, may be established, revised or abolished by ordinance. Such an ordinance may be introduced by the mayor or council. If the ordinance is introduced by council, council shall immediately notify the mayor, who shall within thirty days of receipt of notice submit a recommendation to council. Council shall take no action on the ordinance until a recommendation is received or the thirty day period expires.

§ 209. APPOINTMENT AND TERM OF HEADS OF MAJOR ADMINISTRATIVE UNITS.

The mayor shall appoint the heads of all major administrative units subject to approval of council. Unless removed, all major administrative unit heads shall hold office during the term for which the mayor is elected and until their successors are appointed and qualified.

§ 210. REMOVAL OF HEADS OF MAJOR ADMINISTRATIVE UNITS.

The mayor may remove the head of any major administrative unit at will. A removal shall not be effective until the mayor transmits reasons to council in writing.

§ 211. INFORMATION REQUIRED OF UNITS OF GOVERNMENT.

All heads of units of government shall furnish the mayor or council such information as the mayor or council shall demand at any reasonable time and shall make an annual public report in writing to the mayor and council.

§ 212. CITY SOLICITOR.

The mayor shall appoint, subject to approval of council, a city solicitor. The solicitor shall be a major administrative unit head. The city solicitor shall be an attorney qualified to practice law before the Supreme Court of Pennsylvania.

§ 213. DUTIES OF CITY SOLICITOR.

The city solicitor shall:

- a. act as attorney for the City as a municipal corporation, for council, and for any city unit of government, except when council or a unit of government authorized to do so by this charter chooses to use its own counsel;
- b. prepare all contracts to which the City or any of its units is a party; and,
- c. audit, in connection with the election of the controller, the preliminary account of campaign contributions and expenses required by section 802 of this charter, to publish the results of the audit, and to inform the proper authorities of any violation of law revealed by the audit.

§ 214. APPOINTMENT AND TERM OF MEMBERS OF BOARDS AND COMMISSIONS.

The mayor shall appoint the members of all boards and commissions subject to approval of council. They shall serve for terms as provided by law, this charter or ordinance.

§ 215. REMOVAL OF MEMBERS OF BOARDS AND COMMISSIONS.

The mayor may remove any member of a board or commission at will except as otherwise provided by this charter. A removal shall not be effective until the mayor transmits reasons to council in writing.

§ 216. HUMAN RELATIONS COMMISSION.

The mayor shall appoint a fifteen member human relations commission. Each member shall serve for a term of four years or until a successor is appointed and qualified. The commission shall:

- a. investigate complaints of unlawful discrimination against any person in the enjoyment of the civil rights guaranteed by law, this charter or ordinance and secure those rights without discrimination;
- b. secure the rights of citizens to services from city government without discrimination;
- c. submit an annual written report to the mayor summarizing the year's activities and making recommendations;
- d. hold public hearings as necessary to make determinations on all matters within its jurisdiction; and,
- e. perform other duties and exercise all powers including enforcement powers as conferred by law or ordinance.

§ 217. HUMAN RELATIONS COMMISSION STAFF.

The commission may employ and supervise a staff including a solicitor. The solicitor for the commission shall be an attorney qualified to practice law before the Supreme Court of Pennsylvania. The solicitor shall be responsible to the chief staff officer of the commission and provide legal representation to the commission on legal matters within its jurisdiction.

§ 218. REMOVAL OF HUMAN RELATIONS COMMISSION MEMBERS.

The mayor may remove a commission member only for just cause and with the approval of council. The mayor shall submit reasons constituting cause in writing to the commission and council.

§ 219. APPOINTMENT AND TERM OF MEMBERS OF AUTHORITIES.

The mayor shall appoint all members of authorities subject to approval of council except as otherwise required by law. They shall serve for terms as provided by law.

§ 220. COMPOSITION OF AUTHORITY BOARDS.

A member of council shall serve on each authority board. However, no member of council may serve on more than one authority board at the same time.

§ 221. REMOVAL OF AUTHORITY MEMBERS.

The mayor may remove any member of an authority at will except as otherwise provided by law. A removal shall not be effective until the mayor transmits reasons to council in writing.

§ 222. VACANCIES ON AUTHORITIES, BOARDS AND COMMISSIONS.

Should the mayor fail to nominate a person to fill any vacancy, however created, on any authority, board or commission within sixty days after an office becomes vacant, council may fill the vacancy unless prohibited by law.

§ 223. APPOINTMENT AND TERM OF MAGISTRATES.

The mayor shall appoint city magistrates subject to approval of council. They shall serve for terms of four years. However, the initial terms of magistrates appointed following adoption of this charter shall be staggered so that their appointment is distributed over four year periods as evenly as possible. If the mayor fails to nominate a person to fill a city magistrate's position within 60 days after the expiration of a magistrate's term, the name of the person currently holding that magisterial position shall, upon the person's consent, automatically be re-nominated for an additional term.

§ 224. CHIEF MAGISTRATE - STAFF.

The mayor shall designate one magistrate to serve as chief magistrate. The chief magistrate shall employ and supervise a staff which shall be responsible to the chief magistrate. The chief magistrate shall be responsible for the scheduling of cases, assigning magistrates to various courts and maintaining proper decorum in court at all times.

§ 225. REMOVAL OF MAGISTRATES.

Magistrates may be removed as provided by law and this charter.

§ 226. ORGANIZATION AND JURISDICTION OF MAGISTRATE COURTS.

Except as otherwise provided in this charter or by ordinance, the organization, jurisdiction, powers, procedures and practices of the magistrate courts shall be in accordance with the law.

§ 227. TABLE OF ORGANIZATION.

The executive branch shall file a table of organization in the office of city clerk. The table of organization shall be kept current at all times and shall be available for inspection by the public during regular work hours.

§ 228. INDEPENDENT CITIZEN REVIEW BOARD.

There is established an Independent Citizen Review Board, comprised of seven members reflecting Pittsburgh's diversity, for the purpose of receiving, investigating and recommending appropriate action on complaints regarding police misconduct and for the purpose of improving the

relationship between the police department and the community. The members shall serve four year staggered terms and serve until the appointment of their successors. Four of the seven appointments shall be made from a list of nine nominations submitted to the Mayor by City Council. Members shall be residents of the City, shall not be employed by the City or any of its Authorities, and shall serve without compensation.

§ 229. POWERS OF INDEPENDENT CITIZEN REVIEW BOARD.

The Board shall:

- a. Investigate selected complaints filed by individuals alleging police misconduct;
- b. Establish a mediation program pursuant to which a complainant may voluntarily choose to resolve a complaint by means of informal conciliation;
- c. Provide advice and recommendations to the Mayor and the Chief of Police on policies and actions of the Police Bureau, including recommendations on police training, hiring and disciplinary policies and specific recommendations of discipline for individual officers; provided, however, the Mayor and the Chief of Police shall retain full and ultimate authority to set disciplinary policies or take other actions deemed appropriate relative to the Police Bureau.
- d. Hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any other matter under investigation or any questions before the board and do all other things necessary to fulfill its purpose.

The Board shall employ and supervise a staff including a solicitor, as necessary. The Board shall adopt procedures and rules necessary to fulfill its purpose. City Council may by ordinance adopt regulations to effectuate this Charter provision.

§ 230. RESPONSE TO RECOMMENDATIONS OF INDEPENDENT CITIZEN REVIEW BOARD.

Within thirty (30) days of submission of a recommendation by the Board to the Mayor and the chief of Police, they shall respond in writing as to whether such recommendations are accepted, rejected or will be implemented with modifications.

ARTICLE 8 GENERAL PROVISIONS**§ 801. DISCLOSURE OF INTERESTS.**

All elected officials of the City shall, on or before January 15, of every year during their term of office, file a disclosure, as of January 1 of that year, with the controller, which shall be available for public inspection and shall contain the following information:

- a. the names of all business or non-profit corporations, associations, partnership, joint ventures, estates, proprietorships, trusts business activities and organizations, other than religious organizations and religious corporations:
 1. with which the official has any connection as an owner, officer, employee, consultant, contractor, creditor, shareholder, member, partner, joint venture, trustee, beneficiary or participant; or
 2. in which the official has any financial or property interest in any form, whether a legal interest or equitable interest or otherwise: stating as to each name, the nature of the connection or interest:
- b. a brief description of all legal and equitable interests of any degree in real property held by the official;
- c. a statement of the remaining amounts of any funds and contributions related to the officials most recent nomination and election, and by whom and how held; and
- d. the names of all creditors of the official and debts as to which the official is co-signer, surety or guarantor in excess of \$1,000.

§ 802. CAMPAIGN CONTRIBUTION AND EXPENSES.

In connection with every election city office, each candidate for nomination or election, and every treasurer of a political committee or person acting as treasurer, shall file a public preliminary account or receipts and expenses five days prior to the election. The preliminary account shall be in the same form and contain the same information as required by law to be filed following an election except that the information shall be provided as of a time seven days prior to election.

§ 803. VACANCIES.

The office of any elected official shall become vacant upon death, resignation or upon removal from office in any manner authorized by law or this charter or upon forfeiture or failure for any reason to assume office within forty-five days after commencement of the term.

§ 804. FORFEITURE OF OFFICE.

Elected officials of the City shall forfeit their office if they:

- a. at any time during their term lack any qualification for the office prescribed by this charter or by law, or
- b. are convicted of first degree murder or felony of the first or second degree as set

- forth in the penal code of this Commonwealth and all appellate remedies exhausted, or
- c. falsify or fail to make an annual disclosure of interests as required by section 801 of this charter, or
 - d. falsify or fail to make a preliminary account of campaign contributions and expenses as required by section 802 of this charter.

§ 805. PENALTIES.

Council shall by ordinance, determine the penalty for any violation of any provision of this charter except where the charter expressly provides a penalty.

§ 806. GROUNDS FOR REMOVAL -IMPEACHMENT.

Every elected official or officer pursuant to impeachment proceedings may be impeached, suspended or removed from office in the event of mental incapacity, incompetency, neglect of duty malfeasance, mismanagement or for any corrupt act or practice.

§ 807. IMPEACHMENT PROCEEDING.

Impeachment proceedings may be initiated by presentation of a written petition to the Court of Common Pleas signed by at least twenty qualified electors who reside in the City. If in the opinion of the court, reasonable grounds are set forth in the petition, the court shall appoint a citizen investigating committee to make a written report to the court. If the committee reports the charges well founded, council shall sit as a court and the president judge of the Court of Common Pleas shall preside. Except in cases where the city solicitor or the mayor is accused, the city solicitor shall act as prosecuting attorney. If the City solicitor or the mayor is accused, or the city solicitor is unable to serve as prosecuting attorney, the solicitor for the controller shall act as prosecuting attorney. The decision shall be filed in the Court of Common Pleas. If the accused is found guilty of any charge specified, the court shall enter an appropriate judgment and declare the accused's office vacant.

§ 808. SUBPOENA POWER.

In any case where an elected official, officer, or unit of government has the power to conduct public hearings the elected official, officer or unit of government shall the authority to issue subpoenas for the attendance of witness and to compel testimony and the production of documents and other evidence. The subpoena shall issue in the name of the City and shall be signed by the elected official, officer or presiding officer of the unit of government. Any witness who refuses to obey a subpoena, or who refuses to testify under oath or affirmation, may be cited for contempt in any Court of Common Pleas having jurisdiction.

§ 809. ANNUAL INVENTORY.

The executive branch shall conduct and maintain an annual inventory of all city property which shall be readily accessible to all units of government.

§ 810. PUBLIC RIGHT TO INSPECT RECORDS.

City records, the disclosure of which would invade a person's right to privacy, hinder law enforcement, endanger the public safety, or breach a legally recognized duty or confidence or the nondisclosure of which is legally privileged, or which have been prepared for or by the city solicitor for use in actions or proceedings to which the City is or may be a party, shall not be available for public inspection. All other city records shall be open for public inspection, but the officer, unit head, board or commission or other governmental agency of the City having the care and custody of such records may make reasonable regulations governing the time, place and manner of their inspection. For the purposes of preservation, copies of city records may be substituted for inspection in lieu of original records.

§ 811. SEVERABILITY.

In the event this charter cannot take effect in its entirety because of the judgment of any court of competent jurisdiction holding invalid any provision, the remaining provisions of the charter shall be given full force and effect as completely as if the provision held invalid were not included.

§ 812. EFFECT OF CHARTER ON EXISTING LAWS.

Subject to pertinent enabling legislation authorizing a home rule charter, this charter shall supersede any existing charter and all acts or parts of acts, local special or general and all ordinances and resolutions of the City to the extent that they are inconsistent or in conflict with this charter. All existing acts of parts of acts and ordinances affecting the organization, government and powers of the City, not inconsistent or in conflict with this charter shall remain in full force and shall be construed as if enacted under this charter, but as of the date of their original enactment. No contract existing on the effective date of this charter shall be affected by it. Council by ordinance or resolution may supersede any act of the general assembly insofar as permitted by pertinent enabling legislation and this charter.

§ 813. EFFECTIVE DATE AND SCHEDULE.

This charter shall become effective on the first Monday of January 1976, except in the following particulars:

- a. Members of council shall be elected in 1975 under the provisions of this charter, and for that purpose all sections of this charter relating to election of members of council shall become effective immediately upon the adoption of this charter by the electors.
- b. Council seats filled in the 1973 municipal election which become vacant for any reason after the adoption of this charter shall be filled in accordance with the provisions of this charter except for the first vacancy which shall remain unfilled.
- c. Appropriations shall be made for the year 1976 so as to implement fully the provisions of this charter. Council shall as promptly as possible adopt any legislation necessary to implement all provisions of this charter.

ARTICLE VI: CITIZEN POLICE REVIEW BOARD

CHAPTER 661: FINDING AND POLICY

§ 661.01 Definitions§ 661.02 Legislative findings§ 661.03 Declaration of policy

§ 661.01 DEFINITIONS.

(a) **MISCONDUCT.** As used in this Article is defined to mean and include any alleged improper or illegal acts, omissions or decisions directly affecting the person or property of a natural person by reason of:

- (1) A violation of any general, standing or special orders or guidelines of the Police Bureau or the Department of Public Safety; or
- (2) A violation of any federal law, state law or the Pittsburgh Code;
- (3) Any act otherwise evidencing improper or unbecoming conduct by a police officer employed by the City of Pittsburgh.

(b) **BOARD.** As used in this Article is defined to mean the Citizen Police Review Board established pursuant to sections 228230 of the City of Pittsburgh Home Rule Charter.

(c) **DIVERSITY.** As used in this Article is defined to mean the rich mixture of people who inhabit the City of Pittsburgh in terms of race, color, religion, ancestry, national origin, place of birth, sex, sexual orientation, familial status, age, handicap, disability, and economic status.

(Ord. 29-1997, eff. 8-15-97)

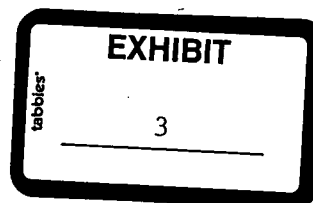
(d) **LAW ENFORCEMENT PROFESSIONAL.** As used in this Article shall include, but not be limited to, police officers employed by any local, state or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, employees of a county District Attorney's office, corrections officers, detention officers, jailguards or other prison employees.

(e) **LAW ENFORCEMENT OFFICER.** As used in this Article shall include, but not be limited to, police officers employed by any local, state, or federal governmental entity, including municipal authorities, sheriffs or sheriffs deputies, agents of the Federal Bureau of Investigation, Central Intelligence Agency, U.S. Marshals, employees of the U.S. Attorney's office, employees of a state attorney general's office, and employees of a county District Attorney's office. For purposes of this Article, however, **LAW ENFORCEMENT OFFICER** shall not be construed to include corrections officers, detention officers, jailguards or other prison employees.

(f) **BAD FAITH.** As used in this Article refers to when an individual acts fraudulently, dishonestly, or in a corrupt manner in initiating and/or pursuing a complaint of misconduct.

(g) **OMI.** As used in this Article refers to the Office of Municipal Investigations or its successor administrative unit, which is the unit of the executive branch directed to investigate police misconduct.

(Ord. 29-1997, eff. 8-15-97)



§ 661.02 LEGISLATIVE FINDINGS.

(a) The residents of the City of Pittsburgh expressed their desire to change the system for the investigation and disposition of complaints alleging police misconduct by voting to create an Independent Citizen Police Review Board during a referendum election conducted on May 20, 1997.

(b) The amendments to Article two (2) of the City of Pittsburgh Home Rule Charter approved by the residents of the City of Pittsburgh, vest an Independent Citizen Review Board with certain powers and provide for Council to adopt legislation to implement the Citizen Review Board.

(Ord. 29-1997, eff. 8-15-97)

§ 661.03 DECLARATION OF POLICY.

(a) It is hereby declared to be the policy of the City that it is paramount to the maintenance of public safety and public confidence in law enforcement that allegations of police misconduct be thoroughly investigated and evaluated by an independent board which shall reflect to the greatest extent possible the City's diversity.

(b) It is equally important that falsely accused police officers be evaluated by a credible, independent investigative board as it is that those properly accused be investigated by a credible, independent, investigative board.

(c) The Citizen Police Review Board shall strive to prevent future incidents of police misconduct and abuses of civil rights, and strive to promote public confidence in law enforcement through its capacity to investigate, hold public hearings regarding and evaluate allegations of police misconduct and its capacity to hold hearings regarding and make recommendations concerning patterns of police misconduct if such are found.

(d) It is not the intention of this legislation to undermine the disciplinary authority of the Chief of Police in the exercise of his or her duties or to alter the executive authority of the Mayor, but to mandate independent, equitable procedures for both citizens and police personnel for investigating citizens' complaints of police misconduct.

(e) This legislation is not intended to violate the right against self-incrimination of any individual, in particular police, nor is this legislation intended to violate any other rights of individuals protected under the Constitutions and laws of the Commonwealth of Pennsylvania and the United States of America. This legislation shall be interpreted consistent with this principle.

(f) This legislation is not intended to eliminate the executive authority and obligation of the City to thoroughly investigate all citizen complaints of police misconduct.

(Ord. 29-1997, eff. 8-15-97)

CHAPTER 662: CITIZEN POLICE REVIEW BOARD

§ 662.01 Establishment of Board.

§ 662.02 [Reserved.]

§ 662.03 Budget and staff.

§ 662.04 Board members.

§ 662.05 Powers, duties and limitations of Board.

§ 662.06 Hearings.

§ 662.07 Finding of necessity.

§ 662.08 Form of advice and recommendations.

§ 662.09 Response to Board recommendations.

§ 662.10 Annual report.

§ 662.11 Review.

§ 662.12 Severability.
§ 662.13 Effective date.

§ 662.01 ESTABLISHMENT OF BOARD.

The Independent Citizen Police Review Board is hereby established pursuant to Article Two, Section 228 of the Pittsburgh Home Rule Charter.

(Ord. 29-1997, eff. 8-15-97)

§ 662.02 [RESERVED.]

§ 662.03 BUDGET AND STAFF.

The Board's expenses, arising from the obligations imposed hereunder, including the training required by § 662.04(f) and the maintenance of an office which must be located in the same building as any Police Bureau offices, shall be evaluated during the budget process provided by the Charter and this Code of Ordinances. The Board shall supervise a staff and solicitor as necessary to carry out its duties. The hiring salary levels and supervision of Board staff shall be subject to Civil Service Rules And Regulations.

(Ord. 29-1997, eff. 8-15-97)

§ 662.04 BOARD MEMBERS.

(a) The Board shall consist of seven (7) members reflecting Pittsburgh's diversity, who shall be appointed by the Mayor. Four (4) of the original members shall be appointed to four (4) year terms and three (3) shall be appointed to two (2) year terms, and all shall serve until the appointment of their successors. Persons appointed to fill vacancies shall serve for the balance of the terms for which their predecessors were appointed. All other appointments shall be for terms of four (4) years.

(b) All appointees shall be residents of the City of Pittsburgh, shall not be employed by the City or any of its authorities, shall not hold any other public office and shall serve without compensation. Board members may, however, be reimbursed for expenses incurred in the direct implementation of the Board's responsibilities. No resident who has been convicted of a felony or a misdemeanor, excluding summary offenses, shall serve as a Board member. Persons appointed to the Board shall be fair minded and committed to the efficient and effective operation of the Board.

(c) The Mayor shall make appointments in the following manner:

(1) Four (4) appointments, of which two (2) shall be for initial four (4) year terms and two (2) for initial two (2) year terms, shall be made from a list of nine (9) nominations submitted to the Mayor by the City Council. Council will forward such nominations to the Mayor by resolution and shall do so no later than thirty (30) days prior to the effective date of this Chapter.

(2) In appointing Board members to fill vacancies, if the vacancy has been created by the departure, for whatever reason, of one (1) of the four (4) Board members appointed from City Council's nominations, the Mayor shall fill such vacancy by appointing the Board member from a new list of three (3) nominations submitted by Council. Nominations must be forwarded to the Mayor no later than thirty (30) days notification to

Council by the Board that a vacancy exists. If the Mayor fails to appoint Board members within sixty (60) days of being forwarded nominations, Council shall appoint Board members for any existing Council nominated vacancies.

(d) In making such nominations and appointments to the Board, the Mayor and Council shall use their best efforts to create and maintain a Board reflecting the diversity in the population of the City. The Board shall be comprised of no more than two (2) persons who are experienced as law enforcement professionals. However, no Board member shall be a sworn, currently employed, law enforcement officer. When a vacancy seated by a law enforcement professional occurs, Council and the Mayor shall select a replacement member with a law enforcement background.

(e) Within three (3) months of its first meeting, the Board shall elect a chair and vice-chair. New elections for officers shall be held every two (2) years after the election of the Board's initial officers, and at such other times as the Board may determine in its rules. Before receiving any complaint alleging police misconduct, the Board shall adopt rules governing its activities, including the conduct of its meetings, proceedings, other operations and the manner by which members of the general public are to submit complaints and the manner by which members of the general public and the Police Bureau and OMI may be informed of the current and final status of complaints. Before adopting these rules, the Board shall publish draft rules and shall hold at least one (1) public hearing to receive comments from the public on the draft rules. The Board shall make the adopted rules available at no expense to any individual requesting them and shall promptly inform all complainants, witnesses and other interested individuals of their existence.

(f) All Board members shall be required to receive training sufficient to become familiar with Police policies, procedures and training which shall include but not be limited to the Police Citizen's Academy. Board members shall also receive training in citizen rights with regard to the police, including civil, constitutional and human rights, as well as information regarding the history and operation of other Citizen Police Review Boards. Such training shall be provided in a timely fashion by qualified experts in each area.

(Ord. 29-1997, eff. 8-15-97; Am. Ord. 7-2000, eff. 3-9-01)

§ 662.05 POWERS, DUTIES AND LIMITATIONS OF BOARD.

(a) The Board shall provide advice and recommendations to the Mayor and the Chief of Police on policies and actions of the Police Bureau with the purpose of improving the ability of police personnel to carry out their duties, and to improve the relationship between the Police Bureau and the community.

(b) The Board shall receive all complaints alleging police misconduct and shall have full discretion to select appropriate individual incidents to investigate and broader issues to study regarding community and police relations. Non-uniformed OMI personnel, who are not police officers, may observe and participate during the initial filing of a citizen complaint with the Board. However, OMI's role during the complaint intake by the Board shall be secondary to that of the Board. Subject to applicable law, OMI shall allow the Board access to all evidence obtained during the course of its investigations of incident(s) which are the subject of citizen complaint(s) filed with the Board. The Board and its staff shall keep all such evidence confidential. Subject to applicable law, the Board will allow OMI access to all evidence obtained during the course of its preliminary inquiries, investigations and hearings, subject to an agreement that such evidence will be kept confidential. The Board shall, to the extent possible, minimize any duplication of effort between the Board and any other existing agencies, City offices or City departments which have jurisdiction over the same matter. However, the Board may carry on investigatory and other proceedings on a matter being examined at the same time by OMI.

(c) The Board shall meet regularly to receive, review, evaluate and make recommendations

concerning individual citizen allegations of police misconduct.

(d) No Board finding or recommendation shall be based solely upon an unsworn complaint or statement, nor shall prior unsubstantiated, unfounded or withdrawn complaints be the sole basis for any such finding or recommendation.

(e) The Board shall establish a mediation program pursuant to which a complainant and officer(s) may voluntarily choose to resolve a complaint by means of informal conciliation.

(f) The Board shall respond in writing to all complaints filed by individuals alleging police misconduct within ten (10) working days of receiving any such complaint. Such response shall indicate whether, in the exercise of its discretion, the Board will conduct a preliminary inquiry into the allegations made, not take any action, or request additional information to enable it to make a decision on its options.

(g) If the District Attorney, Attorney General or U.S. Attorney has initiated criminal proceedings against any police officer or officers who are the subject(s) of a citizen complaint filed with the Board, the Board shall defer its preliminary inquiry and investigation until said criminal proceedings have been withdrawn or concluded.

(h) (1) Upon the filing of a complaint, signed under penalty of perjury, by any individual, the Board may choose to conduct a preliminary inquiry into the allegations contained in the complaint. During the preliminary inquiry, the Board shall keep all information, records and proceedings confidential. No statements or records disclosed during the preliminary inquiry may be disclosed or introduced into evidence during any judicial proceeding. The complaints selected for preliminary inquiry shall only be those where the Board reasonably believes the ultimate result will improve the relationship between the police department and the community.

(2) The Board shall complete its preliminary inquiry within ten (10) working days of its initiation.

(3) If the preliminary inquiry fails to establish reason to believe that any misconduct occurred, the Board will terminate its inquiry and so notify the complainant and the officer(s) who were the subject of the complaint and the Chief of Police.

(4) If the Board determines that the preliminary inquiry has established evidence of misconduct, it shall attempt to resolve the complaint through mediation, if the complainant and officer(s) voluntarily choose(s) said resolution.

(i) Mediators shall conduct mediation sessions with officers and complainants at times and places agreed upon by the parties. Where these mediation sessions result in resolution of the dispute, the mediator shall inform the Board and Chief of Police in writing within fifteen (15) working days.

(ii) In conducting the mediation, the mediator may suggest avenues toward resolution but may not impose an outcome on the parties;

(iii) Mediation sessions shall be closed to the public. Matters discussed shall be confidential unless both parties agree otherwise as part of a written mediation settlement;

(iv) Statements and records disclosed during mediation may not be disclosed or introduced into evidence during any judicial proceeding.

(i) (1) If the Board determines that the preliminary inquiry has established evidence of misconduct and either the complainant or the officer is not agreeable to participating in mediation or if no resolution can be reached through reasonable mediation efforts, it shall conduct an investigation into the complaint in preparation for a public hearing. The Board shall keep all information, records and proceedings relating to the investigation confidential.

(2) The Board shall complete its investigation within thirty (30) working days of its

initiation. However, upon good cause, the Board may extend its investigation for an additional thirty (30) working days upon written notice to the parties.

(3) If the Board determines upon completion of its investigation that it disagrees with the results of the preliminary inquiry and that it does not believe that any misconduct occurred, the Board will terminate its investigation and so notify the complainant and the officer(s) who were the subject of the complaint and the Chief of Police.

(4) If the Board determines upon completion of its preliminary inquiry that misconduct has occurred, it shall schedule a public hearing on the complaint providing the parties and the Chief of Police with ten (10) working days written notice.

(j) The Board needs and expects the cooperation of police officers in order to fulfill its responsibilities mandated by the Charter. Therefore, the Board shall not forward any statements or testimony provided by Pittsburgh Police Officers, either under oath or otherwise, to any law enforcement agency, without the express written consent of the officer providing the statement. However, if any person subpoenaed by the Board refuses to testify without legal basis, the Board may apply to the Allegheny County Court of Common Pleas for an Order enforcing the subpoena.

(k) The Board shall have the responsibility of informing the public about the Board and its duties, and shall develop and administer an ongoing program for the education of the public regarding the provisions of this Chapter.

(l) The Board shall direct and supervise the operations of the staff with regard to receiving, investigating, and disposing of all citizens' complaints against a police officer, in accordance with the procedures set forth herein and the best available investigatory practices, and complainants shall be notified in writing of the action taken, if any, by the Chief of Police.

(m) In order to accomplish its goals as set forth above, and consistent with the limitations of § 661.03 above, the Board shall have full power to request the Police Bureau to produce appropriate personnel or subpoena such personnel for interviews, which the Police Bureau shall cooperate with and make a good faith effort to accommodate, and to request or subpoena relevant documents which it agrees to keep confidential, including, but not limited to the following, for review:

(1) OMI files, department management files, ethics and accountability files, and the files of any other internal investigative agency charged with investigating police misconduct incidents;

(2) Police paperwork produced by the Police Bureau for the purpose of investigating suspects or to aid in their prosecution;

(3) Personnel files of officers including annual performance evaluations, records documenting training or records documenting mandatory counseling;

(4) Police Directives;

(5) All general summaries, statistical compilations and other internal reports on shootings, injuries, complaints of abuse, training and any other issues related to the work of the Board;

(6) Relevant information and data contained in the automated early warning system specified in the Consent Decree between the City and the U.S. Department of Justice;

(7) Written reports required to be filed by police officers pursuant to the Consent Decree between the City and the U.S. Department of Justice concerning use of force, warrantless searches, body cavity searches or strip searches and warrantless seizures of property (excluding towing of vehicles) and traffic stops;

(8) Written reports, records and data maintained by the independent auditor appointed

pursuant to the Consent Decree between the City and the U.S. Department of Justice;

(9) Status reports filed by the City with the independent auditor and the U.S. District Court for the Western District of Pennsylvania pursuant to the Consent Decree between the City and the U.S. Department of Justice;

(n) If the Board finds that the complaint was brought in bad faith and if the Board finds that the subject officer(s) did not engage in misconduct, as defined in this Article, the Board shall assess the complainant attorney fees and costs expended on behalf of the subject officer(s).

(o) The Board, upon motion receiving an affirmative vote of at least four (4) members, may:

(1) Initiate investigations of incidents of Police Misconduct for which no complaint has been filed;

(2) Initiate studies, investigations, hold public hearings and make recommendations on policy matters, including improvement of the relationship between the police department and the community, police training, hiring and discipline.

(p) If at any time the Board or its staff determines that a complainant has issued a false accusation against any police personnel as manifested in his/her citizen complaint, the Board shall immediately forward a complete copy of the complaint together with a written directive to the District Attorney of Allegheny County to investigate the complainant for violation of applicable criminal statutes relating to sworn statements.

(q) The Board shall not receive complaints containing allegations nor initiate investigations on its own motion pertaining to incidents which occurred over six (6) months prior to the date of receipt of such complaint.

(Ord. 29-1997, eff. 8-15-97)

§ 662.06 HEARINGS.

(a) To aid its fact-gathering function, the Board shall have the power to conduct public hearings.

(b) The Police Bureau shall cooperate with and make a good faith effort to accommodate the Board's request for police personnel to testify at such hearings regarding any specified matter under review. If such police personnel are the subject of a related criminal investigation, they may elect not to appear until the termination of such proceedings. If such police personnel are the subject of a related investigation by a specially designated Police Bureau Unit, they may elect not to appear until the termination of those proceedings or until the Board determines, by majority vote, that the related proceedings have been subjected to undue delay or are being conducted in an unacceptable manner. Except when excused from testifying pursuant to this section of the Code, all police personnel of the Department shall remain subject to the provisions of §§ 228, 229, and 230 of the Pittsburgh Home Rule Charter. Failure to comply with a validly issued subpoena should be considered by the Bureau as misconduct.

(c) In order to fulfill the Board's responsibility for the accurate collection of truthful testimony in official proceedings, it shall have the power to record testimony by videotape, audiotape and/or stenographic transcription.

(d) All testimony given before the Board shall be given under oath.

(Ord. 29-1997, eff. 8-15-97)

§ 662.07 FINDING OF NECESSITY.

Subject to applicable law, it shall be the duty of the Police Bureau to provide such assistance as the Board may reasonably request, to cooperate fully with investigations by the Board, and to provide to the Board upon request records, personnel and other materials which are necessary for the investigation of complaints submitted pursuant to this Chapter. Upon finding by the Board that documents or personnel requested have not been forthcoming or that necessity requires the production of witnesses and/or documents, the Board may issue subpoenas for such witnesses or documents as it may deem appropriate. However, no document or information obtained through formal or informal process or any member of its staff shall be released to the public unless such document is deemed by the Board to be a public record under the Pennsylvania Right to Know Act, 65 P.S. 66.1, *et seq.*

(Ord. 29-1997, eff. 8-15-97)

§ 662.08 FORM OF ADVICE AND RECOMMENDATIONS.

The Board shall have the power to recommend that the Mayor and the Chief of Police take certain actions. The Board may recommend general reforms or specific actions directed at individual officers; provided, however that the Mayor and the Chief of Police shall retain full and ultimate authority to set disciplinary policies or take other lawful actions they deem appropriate relative to the Police Bureau under the provisions of the Pittsburgh Home Rule Charter. Nothing in this section shall be construed to limit the rights of members of the Police Bureau with respect to disciplinary action, including but not limited to the right to notice and a hearing, which may be established by any provision of law or otherwise.

(Ord. 29-1997, eff. 8-15-97)

§ 662.09 RESPONSE TO BOARD RECOMMENDATIONS.

Within thirty (30) working days of submission of a recommendation for action by the Board to the Mayor and the Chief of Police, they shall respond in writing regarding which recommendations are accepted, rejected, or will be implemented with modifications. If the Board's recommendations are rejected or modified, the Mayor and/or Chief of Police shall include a written explanation for their decision.

(Ord. 29-1997, eff. 8-15-97)

§ 662.10 ANNUAL REPORT.

The Board shall prepare an annual report for Council, making sufficient numbers of copies available to the public, summarizing the activities and recommendations of the Board, including the tracking and identification of trends in respect to all complaints received and investigated during the reporting period.

(Ord. 29-1997, eff. 8-15-97)

§ 662.11 REVIEW.

A committee comprised of a representative of the Mayor, the Director of the Human Relations Commission and a representative of Council, appointed by the Council President, shall review the implementation and efficacy of this Chapter. The committee will gather statistics, public reaction and comments regarding the Citizen Police Review Board. After a period of nine (9) months from the effective date of this legislation, the committee will submit the findings to Council at which time Council will determine if this Chapter is effective or needs to be modified to implement the mandates of the

Home Rule Charter.

(Ord. 29-1997, eff. 8-15-97)

§ 662.12 SEVERABILITY.

The provisions of this Chapter shall be deemed severable. If any portion, paragraph, sentence, or phrase of such Chapter shall be held by a Court of competent jurisdiction to be illegal or unenforceable for any reason, all other provisions shall continue to be deemed valid and effective.

(Ord. 29-1997, eff. 8-15-97)

§ 662.13 EFFECTIVE DATE.

This Chapter shall take effect November 1, 1997. Initial appointments to the Board shall be made within thirty (30) days prior to the effective date, so that they may assume their duties immediately upon the effective date.

(Ord. 29-1997, eff. 8-15-97)



CITIZEN POLICE REVIEW BOARD

816 FIFTH AVENUE, SUITE 400
PITTSBURGH PA 15219

November 9, 2009

Members of the Board:

Marsha V. Hinton
Chair

Richard M. Carrington
Vice-Chair

Malik G. Bankston

John H. Binger, Esq.

Erin Dalton

Mary Jo Guercio, Ed.D.

Deborah L. Walker

Solicitor:

William F. Ward, Esq.

Hugh F. McGough, Esq.

Executive Director:

Elizabeth C. Pittinger

Paul Donaldson
Deputy Chief of Police
Pittsburgh Bureau of Police
1203 Western Avenue
Pittsburgh PA 15233

Dear Chief Donaldson,

On October 27, 2009, at their regularly scheduled business meeting, the Citizen Police Review Board authorized an inquiry into the policies and procedures that guided the numerous encounters between police and civilians during the G-20 period in Pittsburgh.

Enclosed is an extensive request for information and documents related to the G-20 law enforcement operations. The requested materials are critical to our ability to understand the dynamics affecting the police actions and evaluate the outcomes.

Kindly forward the material to me at your earliest convenience, but please no later than December 2, 2009.

If you, or your designee, have any questions about the substance of the request, please call me, 412-765-8023.

Thank you.

Sincerely,

Elizabeth C. Pittinger
Executive Director

412-765-8023 Office
412-765-8059 Facsimile
412-255-CPRB Tipline
cprb@city.pittsburgh.pa.us

Enclosure

EXHIBIT

4

G-20 Related Document and Information Request of the Pittsburgh Bureau of Police

The CITIZEN POLICE REVIEW BOARD has authorized a formal inquiry into the policies and procedures guiding law enforcement and security measures before, during, and after the September 2009 meeting of the G-20 in Pittsburgh.

Accordingly, as executive director of the CITIZEN POLICE REVIEW BOARD, I am requesting that the following documents and information be provided to me by the Pittsburgh Bureau of Police no later than Wednesday, December 2, 2009.

1. A master roster of all police officers serving under Pittsburgh command during the G-20 period of 9/19/09 through 9/26/09 with the following details
(electronic form preferred to allow convenience of grouping to assignments):
 - a. Full Name of the officer
 - b. G-20 ID number
 - c. Original jurisdiction of employment and ID number within original jurisdiction
 - d. Assigned G-20 shift/detail/unit
 - e. Period of official service in Pittsburgh
2. Roster of all officers authorized to carry less lethal weapons during the G-20 operation:
 - a. Please include the pre-requisite criteria necessary to receive authorization
 - b. Full Name of each officer
 - c. G-20 ID number
 - d. Original jurisdiction of employment and ID number within jurisdiction
 - e. Assigned G-20 shift/detail/unit
3. The chain of command by operational duty assignment, detail, and sector (if distinguished from assigned detail).
 - a. Please identify and include each operational division.
 - b. Please identify by name, rank, and G-20 ID number, the individual supervisors of each division, unit, and detail.

- c. Please identify by name, rank, and G-20 ID numbers, the designated chain of command with the authority:
 - i. To declare an unlawful assembly
 - ii. To authorize an emergency police response
 - iii. To order mass arrests and use of force.

4. G-20 related police training records:

- a. Subject matter of each session
- b. Identify each instructor by name, agency affiliation, and instructional topic.
- c. Length of each topical session (please distinguish classroom and field training sessions)
- d. Objectives of the training session
- e. Roster of attending officers
 - i. Full Name
 - ii. G-20 ID number
 - iii. Original jurisdiction of employment and ID number within original jurisdiction

5. Summary of injuries reported by officers describing *(no personally identifiable information is sought by this request)*:

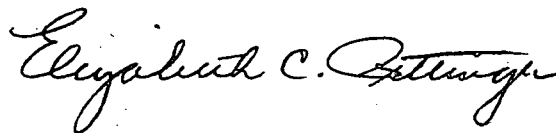
- a. The nature of each reported injury
- b. The severity of each reported injury
- c. The stated cause of each reported injury
- d. Whether emergency treatment was rendered in a hospital emergency department
- e. Please identify mode of transportation provided for each injury requiring emergency treatment (EMS, personal vehicle or police transport)

6. A copy of the orders, authorization, and procedures related to:
 - a. Accountability measures (ID armbands, arrest photos, articulated supervisory measures ordered to assure adherence to accountability measures).
 - b. The use of chemical agents for crowd/riot control
 - c. The use of LRAD for crowd/riot control
 - d. The use of canine for crowd/riot control
 - e. The use of all instruments of force and criteria for their deployment
 - f. The log of authorization for incremental elevations of force deployed
 - g. The operative definition of "unlawful assembly" as applied to G-20.
7. Please provide deployment reports and/or logs related to the Long Range Acoustic Device (LRAD) which include:
 - a. Locations of each LRAD deployment
 - b. Duration of active LRAD warning tone in each deployment
 - c. Decibel setting for the LRAD hailing function
 - d. Decibel setting warning tone for each deployment
8. Inventory of equipment purchased and used:
 - a. Inventory of all new equipment and munitions purchased under the G-20 umbrella (include personal protective equipment, LRADs, vehicles, chemical agents, less lethal munitions, etc.)
 - b. Beginning inventory of all less lethal munitions by type and designated for the operation.
 - c. Ending inventory of all less lethal munitions by type and designated for the operation.
9. A copy of the operational dispersal plan for Oakland that includes:
 - a. Distinctions (if any) for the 9/24/09 and 9/25/09 incidents
 - b. Unit assignments: staging and deployment posts
 - c. Identity of supervisors for each unit

- d. Designated (or intended) routes of egress for dispersing people
 - e. Tactical protocol for the operations
10. A copy of the operational plan for Lawrenceville on 9/24/09 that includes:
 - a. Unit assignments: staging and deployment posts
 - b. Identity of supervisors for each unit
 - c. Designated (or intended) routes of egress for dispersing people
 - d. Tactical protocol for the operations
 11. A copy of the Emergency Declaration by the Mayor.
 12. A copy of all mutual aid agreements and/or contracts executed with any and all visiting agencies providing police officers and/or police support.
 13. A copy of the insurance policy covering the City's risks related to G-20 security and law enforcement activities.
 14. Complete list of demonstration, assembly, protest and march permit applications with following status per application:
 - a. Name of applicant
 - b. Date received by the City and name of person who received the application
 - c. Disposition of Application
 - d. Date of disposition
 - e. Person effecting the disposition of the application
 - f. Litigation outcome of the disposition, if applicable
 15. A copy of the officer's handbook that was distributed to visiting officers.
 16. Copies of intelligence reports and/or briefings and/or logs related to G-20 security risks or threats conveyed to commanders, supervisors and police officers:
 - a. In the four weeks prior to the 9 day G-20 period

- b. Immediately prior to the declarations of unlawful assemblies on 9/24 and 9/25.
- 17. Copies of all arrest and related investigative reports related to G-20 operations filed during the 9 day G-20 period.
- 18. Copies of all Subject Resistance/Use of Force reports filed by venue and/or individual arrests of record:
 - a. Please include projectile discharge reports for all projectiles fired
 - b. Please include deployment reports for OC vapor and smoke grenades
 - c. If the Subject Resistance report does not include documentation of medical clearance for those affected by gas or smoke or hit by baton rounds please include the investigative report documenting same.
- 19. Please provide a copy of any internal review reports on G-20 operations, including the report presented to the National Policing Improvement Agency in the UK.

Submitted by:

A handwritten signature in cursive script, reading "Elizabeth C. Pittinger".

Elizabeth C. Pittinger
Executive Director CPRB

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RECEIVED

NOV 30 2009

Direct Dial: (412) 803-1149
 Email: pdkrepps@mdwecg.com

November 25, 2009

Via Certified Mail, Return Receipt RequestedAnd U.S. First-Class Mail

Elizabeth C. Pittinger
 Executive Director
 Citizens Police Review Board
 816 Fifth Avenue, Suite 400
 Pittsburgh, PA 15219

Re: Citizens Police Review Board Request Directed to City of Pittsburgh, Office of Municipal Investigation on November 5, 2009

Citizens Police Review Board Request Directed to Chief Harper the week of November 9, 2009

Our File No: 14180.5785

Dear Ms. Pittinger:

I have been retained by the Lexington Insurance Company to represent the City of Pittsburgh, including all police officers working the Group of Twenty Finance Ministers and Central Bank Governors Conference (Pittsburgh G20). I am lead defense counsel and due to the nature of this insurance coverage, I effectively represent all City Officials, all City of Pittsburgh Police Officers and all police officers who traveled to the City of Pittsburgh to assist with law enforcement functions during the Pittsburgh G-20. Therefore, please accept this correspondence as notice of my appearance for the City and the aforementioned individuals.

The City of Pittsburgh, Department of Public Safety, Bureau of Police and Office of Municipal Investigations, respectively, have provided me with copies of your above-noted requests for information. To support your request, you state "the [Citizens Police Review Board (CPRB)] has authorized an inquiry into the policies, procedures and circumstances of police/citizen encounters during the G-20 period." The CPRB, by way of your email, requested the Office of Municipal Investigations (OMI) to produce twenty-nine (29) incident reports. In addition, CPRB seeks the production of nineteen (19) categories of documents, including but not limited to "copies of Intelligence reports and/or briefings and/or logs related to G-20 security risks or threats...."

I reviewed these requests as well as the procedures and rules published by the CPRB. I have come to the conclusion that CPRB's requests are excessively burdensome and represent an attempt to extend the authority of CPRB far beyond its scope of responsibility and purpose. Therefore, neither the Bureau of Police nor OMI will provide CPRB with the requested documents.

EXHIBIT

Elizabeth C. Pittinger
Executive Director
November 25, 2009
Page 2

I read various newspapers and saw television news accounts wherein you have announced CPRB's intent to conduct a public inquiry into police misconduct during the Pittsburgh G-20 Summit. You identified yourself as the chairperson for meetings held in Lawrenceville and Oakland. Specifically, these news accounts relate that these CPRB-sponsored public meetings invited people to appear and announce their personal opinions regarding police conduct during the Pittsburgh G20. I also note from the news accounts the active participation by the ACLU in your meetings. This apparent "working relationship" causes concern because the ACLU is actively seeking clients to join law suits against the City. I do not believe that it is coincidental that the deadlines for responding to the CPRB requests pre-date the December 8, 2009, deadline for the ACLU to file its Amended Complaint in the Seeds of Peace lawsuit.

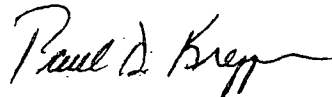
In my capacity as lead defense counsel for the City of Pittsburgh, its public officials and all of the police officers, I am responsible for preparing for anticipated litigation arising out of the Pittsburgh G-20. Therefore I am concerned about dissemination of any information which may be utilized in lawsuits against the City, including the current "Seeds of Peace" matter as well as other litigation that may be filed over the next two (2) years. Therefore, I have advised my clients to refrain from any unwarranted disclosure of information.

I find the CPRB inquiry into citizen-police encounters to be rather one-sided. News accounts attribute statements to you wherein you indicate the CPRB has received approximately seventy-five (75) complaints. The City advised me however that you have not provided it with a copy of each of these "complaints". Therefore, it appears as though CPRB has violated its own procedures and rules. Therefore I request that CPRB produce for the City information in accordance with its own procedures and rules.

Finally, the CPRB has requested that the Bureau of Police disclose information (e.g., "intelligence briefings," "policies," and "procedures relevant to Pittsburgh G-20," etc.) which, for a variety of reasons, cannot be disclosed. First and foremost, such information is not within the scope of CPRB's jurisdiction. Furthermore, the CPRB is not entitled to receive this information under any circumstance assuming such information is even available.

Please contact me if you have any comments, concerns or questions. Thank you for your attention to this matter.

Very truly yours,



Paul D. Krepps

PDK/rme

12/907284.v1

Elizabeth C. Pittinger
Executive Director
November 25, 2009
Page 3

cc: Nathan E. Harper, Chief of Police
Paul J. Donaldson, Deputy Chief of Police
Kathy Kraus, Director, Office of Municipal Investigations
John F. Doherty, Associate City Solicitor
Michael E. Kennedy, Assistant City Solicitor
Wendy Kobee, Assistant City Solicitor

WARD MCGOUGH, LLC

ATTORNEYS AT LAW

SUITE 2312

KOPPERS BUILDING

436 SEVENTH AVENUE

PITTSBURGH, PA 15219

PHONE: 412•395•1245 • FAX: 412•395•1246

December 7, 2009

BY HAND DELIVERY

Paul D. Krepps, Esquire
Marshall, Dennehey, Warner,
Coleman & Goggin
600 Grant Street, Suite 2900
Pittsburgh, PA 15219

***Re: Citizen Police Review Board Request for Information
Your File No: 14180.5785***

Dear Mr. Krepps:

As we discussed Friday, this firm serves as Solicitor to the Citizens Police Review Board of the City of Pittsburgh ("CPRB" or "Board"). CPRB Executive Director Elizabeth Pittinger received your November 25, 2009, correspondence. She provided copies of the letter to members of the Board at the regularly scheduled Public Meeting on December 1, 2009. The Board authorized issuance of a subpoena for the documents your client declined to produce voluntarily.

The documents, which pertain to the G20 Summit, were initially requested in a letter dated November 9, 2009, from Ms. Pittinger to Deputy Chief Paul Donaldson. The subsequent subpoena, signed by CPRB Chair Marsha V. Hinton, was served last week on Chief of Police Nathan Harper. A duplicate original of that subpoena is enclosed with this letter.

As we discussed, I have also enclosed for your convenience the following foundational documents of the CPRB, which are printed directly from the City of Pittsburgh website:

1. City of Pittsburgh Home Rule Charter Article 2 ("Executive Branch"), which expressly charges the Board with "receiving, investigating and recommending appropriate action on complaints regarding police misconduct and for the purpose of improving the relations between the police department and the community." Id. §228. The Charter further authorizes the Board "to hold public hearings, subpoena witnesses and compel their attendance, administer oaths, take the testimony of any person under oath and in connection therewith require the production of evidence relating to any other matter under investigation or any questions before the Board and do all other things necessary to fulfill its purpose." Id. §229(d).

EXHIBIT

6

WARD MCGOUGH, LLC
ATTORNEYS AT LAW

Page 2
Paul D. Krepps, Esquire
December 7, 2009

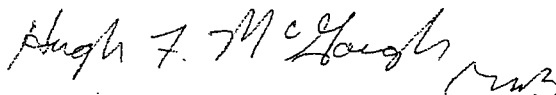
2. City Code Article VI, Chapters 661 -662.13, constituting the CPRB's Enabling Ordinance. I call your particular attention to Section 662.05, which grants the Board "full discretion to select appropriate individual incidents to investigate and broader issues to study regarding community and police relations."

I understand that prior to our phone conversation on December 4, 2009, you were unaware that at the Board's regular meeting on October 27, 2009, it authorized an investigation of police/civilian encounters during the G20 Summit in September. It was pursuant to that authorization that Ms. Pittinger submitted the November 9, 2009, document request to Deputy Chief Donaldson. The information covered by the enclosed subpoena is identical to that requested in the earlier correspondence to the Deputy Chief.

I understand that you already have a copy of the CPRB's Rules and Operating Procedures. I called your attention to Section 662.05(b)(1) defining "a Citizen Complaint" as one that has been "reduced to writing and signed under penalty of perjury by the Complainant." Contrary to the assertion in your letter of November 27, 2009, I assured you that the Board has provided OMI with copies of all sworn CPRB "Citizen Complaints." I further advised you that there is no "working relationship" between the CPRB and the ACLU, and that Ms. Pittinger was unaware of developments in the ACLU-related case prior to you advising her of them.

You and I have agreed to meet Wednesday December 9, 2009, at 9:30 a.m. at Ward McGough, LLC, to discuss the City's response to the CPRB subpoena. I look forward to seeing you then.

Very truly yours,


Hugh F. McGough

Enclosures

cc: Elizabeth Pittinger, Executive Director, CPRB (without enclosures)
William F. Ward, Esquire (without enclosures)

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 (412) 803-1140 · Fax (412) 803-1188

Direct Dial: 412-803-1149
 Email: pdkrepps@mdwecg.com

December 21, 2009

VIA HAND DELIVERY

Hugh McGough, Esquire
 Ward McGough LLC
 Suite 2312, Koppers Building
 436 Seventh Avenue
 Pittsburgh, PA 15219

Re: Seeds of Peace Collective, et al v City of Pittsburgh Bureau of Police, et al
 In the United States District Court for the Western District of PA
 Civil Division; No: 09-01275
 Our File No: 14180.5785

Dear Mr. McGough:

In response to the request for documents by the CPRB, and in keeping with my most recent correspondence regarding documents which the City has agreed to turn over to CPRB, enclosed please find the following reports:

- CCR No. 227649
- CCR No. 228126

The above reports reflect incidents involving

Also, enclosed please find a redaction log identifying information which was removed from these reports.

Thank you for your attention to this matter.

Very truly yours,

Paul D. Krepps

PDK/tms/Enclosures/12/919911.v1

cc: Nathan E. Harper, Chief of Police
 Paul J. Donaldson, Deputy Chief of Police
 Kathy Kraus, Director, Office of Municipal Investigations
 John F. Doherty, Associate City Solicitor
 Michael E. Kennedy, Assistant City Solicitor
 Wendy Kobee, Assistant City Solicitor
 (all w/ enclosure)

EXHIBIT

7

**REDACTION LOG TO CITIZEN POLICE REVIEW BOARD ("CPRB") REQUEST
FOR DOCUMENTS #325-09:**

With respect to a request for documents made by the Citizen Police Review Board, the following information has been redacted from the City of Pittsburgh Bureau of Police Reports pertaining to CCR #227649 and CCR #228126:

CCR #227649:

1. Name, sex, race, date of birth, address, arrest/summons #, OTN, and phone number of other individuals involved in incident;

CCR #228126:

1. Name, sex, race, date of birth, address, arrest/summons #, OTN, and phone number of other individuals involved in incident.

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN POLICE
REVIEW BOARD

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)
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)
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CIVIL DIVISION

G.D. NO.

ORDER OF COURT

AND NOW, to wit, this _____ day of _____, 2010, upon consideration of the foregoing Motion to Enforce Compliance with Subpoena filed by the Citizen Police Review Board,

IT IS HEREBY ORDERED AND DECREED that said Motion is GRANTED.

IT IS HEREBY FURTHER ORDERED AND DECREED that Chief Harper will comply with the subpoena within 7 days of the issuance of this Order.

Failure to comply with this Order shall be punishable as a contempt of court.

By the Court:

_____. J.