

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN  
POLICE REVIEW BOARD

CIVIL ACTION NO. GD-10-1338

AMENDED PETITION FOR RULE TO  
SHOW CAUSE WHY RESPONDENT  
SHOULD NOT BE FOUND IN  
CONTEMPT

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DEPT. OF COURT RECORDS  
CIVIL/FAMILY DIVISION  
ALLEGHENY COUNTY PA

Filed on Behalf of Petitioner, Pittsburgh  
Citizen Police Review Board

WARD McGOUGH, LLC

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10 JUN -9 PM 1:05  
DEPT. OF COURT RECORDS  
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IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN  
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**AMENDED PETITION FOR RULE TO SHOW CAUSE WHY  
RESPONDENT SHOULD NOT BE FOUND IN CONTEMPT**

AND NOW COMES Petitioner, Citizen Police Review Board (“CPRB” or “Board”), by and through its counsel, Ward McGough, LLC, and respectfully petitions this Court for a Rule To Show Cause Why Respondent Should Not Be Found In Contempt. In support whereof, it is respectfully averred as follows:

1. The CPRB issued a subpoena dated December 1, 2009, to compel production by Respondent, Pittsburgh Police Chief Nathan E. Harper, of various reports and documents related to the arrests of more than 200 persons during the September 2009 meeting in Pittsburgh of the Group of 20 Finance Ministers and Central Bank Governors (“G-20”).

2. Respondent, through his counsel, informed the CPRB of his refusal to fully comply with the subpoena.

3. On January 21, 2010, the CPRB filed a Motion to Enforce Compliance with the Subpoena.

4. On February 19, 2010, Respondent filed an Answer and New Matter to the CPRB’s Motion to Enforce Compliance with the Subpoena.

5. On March 8, 2010, the Honorable R. Stanton Wettick, Jr., heard argument on the matter, which was duly transcribed by a court reporter.

6. By Order of Court entered March 18, 2010, the Court granted the CPRB's Motion to Enforce Compliance with Subpoena, specifically ordering as follows: "[T]he documents described in this Subpoena shall be produced within twenty (20) days. Specific documents may be withheld if identified in a Privilege Log."

7. The twentieth day after entry of the Court's Order was Wednesday April 7, 2010; as of that date, Respondent had produced *no* documents in response to the Court's Order of March 18, 2010, nor did Respondent produce a Privilege Log.

8. On April 10, 2010, the CPRB filed its original Petition for Rule to Show Cause Why Respondent Should not be Found in Contempt; it was jointly scheduled for presentation to the Court on April 30, 2010.

9. On April 28, 2010, the CPRB agreed to postpone presentation of the Rule to Show Cause for a period of at least three weeks in exchange for: (a) the City promptly providing documents compliant with the Court's March 18, 2010, Order; and (b) the City withdrawing an appeal it prematurely filed with the Commonwealth Court of Pennsylvania.

#### **THE REDACTION OF REPORTS RESPONSIVE TO EXHIBIT A OF THE SUBPOENA**

10. On May 14, 2010, Respondent produced 309 extensively redacted pages of police reports purportedly responsive to Exhibit A of the Subpoena. The reports sought by Exhibit A are described in the Court's March 18<sup>th</sup> Opinion as follows: "The first category is arrest reports and related documents pertaining to twenty-nine arrests made in connection with G-20 activities." (Opinion, p. 3.)

(a) Respondent's extensive redaction of the reports, as produced to the CPRB, violates the Court's March 18, 2010, Order as the redactions deny the CPRB information to which it is entitled by the Court's Order and by the CPRB Enabling Ordinance.

(b) The Arrest/Summons Report for CCR#228126, as redacted by Respondent and produced on May 14, 2010, illustrates the quantity of information redacted by Respondent. A copy of the redacted report, Bates Stamped R0148, is attached as Exhibit 1.

(c) Respondent has made similar redactions to all 309 pages of police reports, systematically deleting the names of arrestees, their age, sex, race, height and weight; also redacted is information to track the Arrest, OTN and Summons number of each report.

(d) The heavy redaction of the police reports cripples the CPRB's ability to analyze police actions and policies during the G-20.

(e) Respondent's painstaking redaction of information that remains publicly available in various places – including the City's own "Department of Public Safety G-20 Website" – is further evidence of a vexatious, obstructionist motive. See CPRB Motion filed January, 21, 2010, paragraph 29; see also CPRB's Reply to New Matter filed Feb. 26, 2010, paragraphs 45 & 57 & Ex. 2 ("Respondent has been inconsistent in its treatment of information it purports to be 'confidential,' with the absurd result that

Respondent is withholding from the CPRB information that Respondent publicly posted on the internet, specifically the names, sex, race and age of G-20 arrestees.”)

(f) Prior to issuance of the CPRB Subpoena on December 1, 2009, and in the routine course of operations, Respondent had already provided the CPRB with un-redacted copies of several of the documents now provided in redacted form; for example, on November 5, 2009, CPRB received, in the routine course, an un-redacted copy of attached Exhibit 1, the Arrest/Summons Report for CCR#228126.

#### **RESPONDENT'S INCOMPLETE RESPONSE TO EXHIBIT B OF THE SUBPOENA**

11. On May 14, 2010, Respondent produced 948 pages of documents responsive to Exhibit B of the CPRB Subpoena. The documents sought by Exhibit B are described in the Court's March 18<sup>th</sup> Opinion as follows: “The second category is large numbers of documents relating to the G-20 activities of the City of Pittsburgh Police and police officers from other jurisdictions serving temporarily as Pittsburgh Police Officers. The second category includes a roster of all police officers serving under Pittsburgh command, the chain of command, training records, summary of injuries reported by officers, procedures relating to the use of chemical agents, LRAD, and canines and the operational/dispersal plans for Oakland and Lawrenceville. The documents are relevant for an overall review of the manner in which law enforcement responded to G-20 activities.” (Opinion, pp. 3-4.)

(a) On May 14, 2010, Respondent produced only a fraction of the documents sought by Exhibit B to the Subpoena, thus failing to comply with the Court's Order.

(b) The documents that Respondent failed to produce include those necessary for the CPRB to analyze the use by officers of "less lethal weapons," including, but not limited to, the deployment of LRAD, projectiles and tasers.

(c) The documents that Respondent failed to produce include those necessary for the CPRB to analyze other aspects of law enforcement's response to G-20 activities, including, but not limited to, Respondent's operational/dispersal plans for Oakland and Lawrenceville.

#### **RESPONDENT HAS FAILED TO PRODUCE A PRIVILEGE LOG**

12. In a cover letter accompanying the documents provided on May 14, 2010, Respond admits to withholding numerous documents for reasons including, but not limited to, "national security."

13. The Court's March 18, 2010, Order states as follows: "If the City believes that certain documents cannot be produced because they are privileged under federal law, the City shall prepare a Privilege Log which identifies each document and sets forth the basis for the claim that the document cannot be produced." (Opinion, p. 7.)

14. Respondent has withheld documents for which no Privilege Log was provided, thus violating the Court's March 18<sup>th</sup> Order.

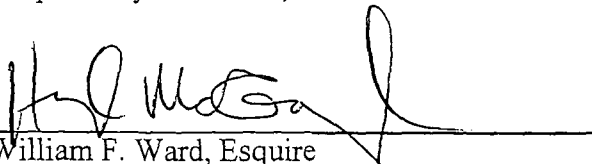
15. On May 25, 2010, the undersigned counsel for the CPRB informed counsel for the Respondent that the Respondent's production of documents was and remained non-compliant with the Court's Order.

## CONCLUSION

15. The CPRB requests that the Court issue a Rule to Show Cause as to Why Respondent Should Not Be Held in Contempt for failing to comply with the Court's Order of March 18, 2010.

16. Should the Court find Respondent in contempt, the CPRB requests entry of an Order imposing the following sanctions: (a) a \$500 fine for criminal contempt of court for failure to comply with the Court's Order on or before May 14, 2010; and (b) a \$100 per day fine for civil contempt for each day henceforth that Respondent fails to comply with the Court's Order.

Respectfully submitted,



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Attorney for Petitioner,  
Citizen Police Review Board

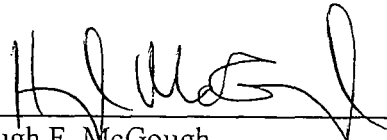
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing Petition For Rule To Show Cause Why Respondent Should Not Be Found In Contempt has been served this 8<sup>th</sup> day of June, 2010, via hand delivery upon the following:

Honorable R. Stanton Wettick, Jr.  
Court of Common Pleas - Civil Division  
City County Building, Suite 818  
414 Grant Street  
Pittsburgh, PA 15219

Paul D. Krepps, Esquire  
Alan E. Johnson, Esquire  
Marshall, Dennehey, Warner, Coleman & Goggin  
U.S. Steel Tower, Suite 2900  
600 Grant Street  
Pittsburgh, PA 15219

Daniel D. Regan, City Solicitor  
John F. Doherty, Associate City Solicitor  
Michael Kennedy, Assistant City Solicitor  
Wendy Kobe, Assistant City Solicitor  
City of Pittsburgh Department of Law  
313 City County Building,  
414 Grant Street  
Pittsburgh, PA 15219

  
\_\_\_\_\_  
Hugh F. McGough





CITY OF PITTSBURGH BUREAU OF POLICE  
ARREST / SUMMONS REPORT

YEAR 09 CCR# 228126

PAGE 1 OF 2

ACTOR:  ADULT  JUVENILE  
ARREST TYPE:  ON VIEW  WARRANT  PFA ARREST  REMEDIAL (JUV ONLY)  
 DETAINED / OTHER AUTHORITY  DETAINED / BENCH WARRANT  SUMMONS

ARREST / SUMMONS # [REDACTED] OTR [REDACTED]

DATE / TIME ORIGINAL OFFENSE OCCURRED: 09/25/2009 2200 Hrs. DATE / TIME OF ARREST: 09/25/2009 2300 Hrs.

ARRESTING OFFICER(S) / I.D. NUMBER(S): Snider, Donald E 3741 : Deary, Timothy J 3660

ZONE / DIVISION  
CRRU

VEHICLE / ASSIGNMENT  
WS :: WO

LOCATION OF ARREST: Fifth Ave & Tennyson Ave 15213

CENSUS 403 ZONE 4

NAME OF ARRESTEE (Last, First MI): [REDACTED] AGE: [REDACTED] SEX: [REDACTED] RACE: [REDACTED] DOB: [REDACTED] PLACE OF BIRTH: [REDACTED] NATIONALITY: [REDACTED]

SSN: [REDACTED] OLN #: [REDACTED] STATE: [REDACTED] SID NUMBER: [REDACTED] HEIGHT: [REDACTED] WEIGHT: [REDACTED] BUILD: [REDACTED] HAIR COLOR: [REDACTED]

HAIR LENGTH: [REDACTED] HAIR STYLE: [REDACTED] FACIAL HAIR: [REDACTED] EYE COLOR: [REDACTED] COMPLEXION: [REDACTED] SPEECH: [REDACTED] TEETH: [REDACTED]

HAND USE: [REDACTED] GLASSES:  YES  NO GANG AFFILIATION: [REDACTED] CLOTHING DESCRIPTION: [REDACTED]

AKA / NICKNAMES: [REDACTED]

SCARS / MARKS / TATTOOS: [REDACTED]

ADDRESS OF ARRESTEE: [REDACTED] PHONE NUMBER: [REDACTED] OTHER PHONE: [REDACTED]

NAME OF EMPLOYER: [REDACTED] OCCUPATION: [REDACTED] HOW LONG EMPLOYED: [REDACTED] BUSINESS PHONE: [REDACTED]

ADDRESS OF EMPLOYER: [REDACTED]

NAME OF SCHOOL: [REDACTED] GRADE: [REDACTED] SCHOOL PHONE: [REDACTED]

ADDRESS OF SCHOOL: [REDACTED]

NO JUVENILE INFORMATION

CO-ARRESTS

NAME(S) OF CO-ARRESTS (Last, First MI)	SEX	RACE	DOB	ARREST / SUMMONS #	OTR
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
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[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]

CHARGES

CODE OR ACT	SECTION NUMBER	CHARGES	OFFENSE ITEM	COUNTS	OFFICE USE ONLY
CC	5502	Failure of Disorderly Persons to Disperse		1	

WARRANT OFFICE REVIEW  
Reviewed and Accepted by PO-4 Donald E. Snider 3741

DATE: 09/26/2009



R 0148

CONFIDENTIAL

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE: PITTSBURGH CITIZEN  
POLICE REVIEW BOARD

CIVIL ACTION NO. GD-10-1338

ORDER OF COURT

WHEREAS, on December 1, 2009, the Citizen Police Review Board ("CPRB") issued a subpoena to Respondent, Pittsburgh Police Chief Nathan E. Harper, for various reports and documents related to the September 2009 meeting in Pittsburgh of the Group of 20 Finance Ministers and Central Bank Governors ("G-20").

WHEREAS, on January 21, 2010, the CPRB filed a Motion to Enforce Compliance with the Subpoena.

WHEREAS, a hearing on the Motion was held on March 8, 2010, after which the Court entered an Order that Respondent comply with the subpoena, provided that specific documents may be withheld if identified in a Privilege Log.

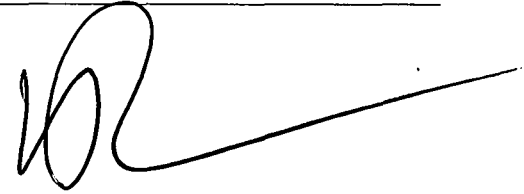
*Issue before me is whether un-redacted 309 reports should be provided; ans depositions produced a Privilege Log.*

*relant to this issue will be completed with 30 days but to be filed with 45 days*  
~~IT IS HEREBY ORDERED, ADJUDGED AND DECREED, that Respondent show cause why Respondent should not be held in contempt of Court.~~

*argued on response brief 15 days later*  
By the Court:

*Argued on AUG 26, 2010 at 1:30 pm*

Wettick, J.



*6-18-10*