

KATHLEEN PATTERSON

507 G Street SE
Washington DC 20003

August 20, 2009

The Honorable Emmet G. Sullivan
U.S. District Court for the District of Columbia
333 Constitution Avenue NW
Washington D.C. 20001

Dear Judge Sullivan:

I write to clear up any confusion that may have been created concerning the Council Committee on the Judiciary investigation of the Metropolitan Police Department handling of demonstrations in Pershing Park in September, 2002, by erroneous statements included in the *Declaration of Peter J. Nickles* recently filed in the *Chang* and *Barham* cases pending before the court.

In paragraph 19 of that document, Mr. Nickles writes that he was informed that the Judiciary Committee issued a subpoena in September 2003 for the "Running Resume for the September 2002 International Monetary Fund/World Bank protests." This is correct. The *subpoena duces tecum* issued by me on September 29, 2003, to Police Chief Charles Ramsey included the request for "SOCC/JOCC print-outs for the April 2000 and September 2002 IMF/World Bank protests." Mr. Nickles adds: "It has been represented to me that the MPD Office of the General Counsel did not receive, much less lose or destroy, the Running Resume." This representation is incorrect. While our request for the 2002 running resume was problematic, and we had to reiterate the request in writing on two occasions, we did receive what was described as the "SOCC/JOCC running resume" on November 21, 2003 with a cover letter from MPD General Counsel Terrence Ryan. In this correspondence Mr. Ryan wrote, "Enclosed are the SOCC/JOCC running resumes for the two listed events" (from 2000 and 2002) and "The department has substituted the SOCC/JOCC running resumes for the Commander's Mass Demonstration Event Logs. The running resumes for the above listed events are being produced today."

The Committee subsequently referred to the running resume in the report, in identifying Chief Ramsey's location at a particular point in time on September 27, 2002. I enclose a copy of Mr. Ryan's November 21, 2003, letter. I note that the signature line appears to read, "Ronald B. Harris for Terrence D. Ryan."

Also of concern is paragraph 20 of Mr. Nickles' submission. He states that the Judiciary Committee *Report on Investigation of [the] Metropolitan Police Department's Policy and Practice in Handling Demonstrations in the District of Columbia* was "authored in

March 2004 by now-Councilmember Mary Cheh.” As this Court knows, the report was authored by me while Councilmember Cheh, at that time, served as special counsel to the Committee.

In that paragraph Mr. Nickles cites the Judiciary report and the manner in which the Committee reconstructed the events of September 27, 2002, including “reviewing MPD after-action reports, and the Department’s ‘running resume’ that logs events reported throughout the day.” This is accurate. He then states that “OAG was denied access to these materials.” This is not true. By the conclusion of the Committee’s investigation – and the publication of the Committee report on March 24, 2004 -- the thousands of pages of documents gathered by the investigation were made public, with the exception of depositions taken from two undercover officers, and a portion of the deposition taken from Assistant Chief Peter Newsham.

The Committee followed rules of procedure that required that all documents received in response to subpoena, and all sworn statements taken in response to subpoena, were deemed confidential, as if given to the Committee in executive session. On December 4, 2003, the Judiciary Committee voted to release from executive session the bulk of the documents received under subpoena from the Metropolitan Police Department. We made the documents public at that time because we planned to make use of the information during two days of public hearings held two weeks later. What we made publicly available included, according to Committee memorandum, “Every document provided to the Committee by the Metropolitan Police Department as of November 21, 2003, pursuant to subpoenas *duces tecum*” and “testimony taken during oral depositions of the following witnesses,” which included statements of 18 police officers and officials and two officials of the Department of Fire and Emergency Medical Services. I enclose a copy of the committee memorandum.

Similarly, we voted to make additional documents public at a Committee meeting on March 4, 2004, to enable the Committee to include statements in the report to be published two weeks later. I enclose a copy of the relevant committee memorandum. Our rules of procedure required a 10-day lapse of time in which those who gave depositions, and the executive branch agencies that provided documents, could raise objections to the public release of information, though of course the Committee retained the right to make the final determination.

To the best of my knowledge, all of the Committee’s investigation files remain available today for public review through the Office of the Secretary of the Council.

Mr. Nickles makes reference to a subpoena seeking documents provided to the Committee, but the Committee on the Judiciary was never the subject of an OAG subpoena – that would have been unnecessary, since, as indicated, the documents had been placed in the public domain. Rather, a subpoena was issued to Councilmember Cheh, by then a private citizen, no longer special counsel to the Committee, and not the holder of any of the official committee records. As Mr. Nickles’ declaration indicates, that subpoena was quashed by the Court.

I hope these comments and enclosed documents clarify what may have been made confusing by the declaration received by the Court. I would be happy to assist the Court in any way, to the end of seeing these cases brought to a conclusion.

Thank you for your consideration.

Sincerely yours,

A handwritten signature in cursive script that reads "Kathy Patterson". The signature is written in black ink and is positioned below the typed name.

Kathy Patterson

Enclosures

cc: Councilmember Cheh
Councilmember Mendelson
Peter Nickles
Mara Verhayden-Hilliard