



Councilmember Phil Mendelson's

At-Large Update

Councilmember
Phil Mendelson
(At-Large)

January 14, 2009

Subpoena Power

On January 6th, the Council voted 10-3 for emergency legislation to block implementation of a Mayor's Order authorizing the Chief of Police to issue subpoenas "in any investigation or examination of any municipal matter." The next day, DC Attorney General Peter Nickels was quoted in the *Washington Post* calling the Council's action "silly" and saying the Chief of Police needs all the help she can get to conduct criminal investigations.

The degree of subpoena authority sought by the Mayor's Order was unprecedented. In fact, there are questions as to whether the broad authority that the Mayor would confer - well beyond criminal matters, into "any municipal matter" - is actually beyond the Mayor's power. Regardless, even in the narrower realm of criminal matters, we have not been able to find another jurisdiction in the country where a police chief has the discretion to issue subpoenas without seeking prior approval of a court.

The Fourth Amendment to the Constitution protects individuals against unreasonable searches and seizures. It requires that searches (including those by subpoena) be sanctioned by a judge, be based on probable cause, and be limited as to scope. Accountability is ensured by the separation of powers between the executive and the judiciary.

For citizens like us who are interested in facilitating law enforcement, what is the danger in the Mayor giving more authority to the

police? Isn't that a good thing?

Some expansion of the Chief's authority may, in fact, be a good thing. However, evidence obtained by the improper use of subpoenas - e.g., in violation of the fourth amendment - could actually jeopardize legal proceedings and result in evidence becoming inadmissible. In addressing this concern, the Chief has said that the authority would be used in minor matters - obtaining phone records and DMV information, for example.

DC Attorney General Peter Nickles, however, told *The Examiner* that the police need this authority to close homicides and other major cases.

A very real danger is that the subpoena authority may be used to gather information for other, undisclosed reasons, given that the breadth of the subpoena authority extends well beyond criminal cases, to "any municipal matter." Individuals may not even know that such information was obtained, and they would have no recourse to complain even if they did.

The Council's emergency legislation gives time for the Executive to explain the need for and intended scope of the subpoena authority. It enables the Council and the public to understand the existing constraints to law enforcement that prompted the Mayor's Order and to explore appropriate limits. I have scheduled a hearing for Friday, February 6th. I invite your participation.

Constituent Services Corner

A southeast woman visited Councilmember Mendelson's office fearful that her home's roof was dangerously close to collapsing, jeopardizing her safety. Even after an inspection report cited the developer of the property for faulty construction, he was unwilling to make the necessary repairs, even though the roof was still under warranty.

Our office made an appointment with the Legal Aid Society of the District of Columbia and ensured that the homeowner secured legal representation to challenge the developer's unreasonable stance. As a result of linking her with proper legal representation via the nonprofit, the homeowner ultimately settled with the developer and was able to save her home from collapse.

Whether it's trouble within the District government, or with an outside entity, don't wait until the bottom falls out (or the top caves in). Turn to our office for guidance - if we can't help, we'll find someone who can.

Mendelson Honored by Labor, LGBT Communities

This past fall, Councilmember Mendelson was honored at events held by the Employment Justice Center as well as the Gertrude Stein Democratic Club for his commitment to working men and woman as well as his dedication to expand human rights in the District of Columbia.

At the Gertrude Stein Democratic Club's 32nd Anniversary & Leadership Awards event, Phil received the "Wanda Alston Democratic Service Award" for his support for the LGBT community and his leadership in advancing human rights via spearheading progressive policies on the Council such as domestic partnership laws.

Established in 1976, the Gertrude Stein Democratic Club is a strong voice for the District's lesbian, gay, bisexual, and transgender Democrats and is one of the oldest Democratic clubs in the District.

Phil's work was also highlighted by the Employment Justice center (EJC) at their Annual Labor Day Luncheon 2008. Phil received the "Kerry O'Brien Community Partner of the Year" award for being a true champion for low-wage workers in the District. Among other pieces of pro-worker and pro-family legislation, Phil was feted for his introduction of the Paid Sick & Safe Days Act, now law, which provides workers in the District with access to paid time off to address their own health and safety needs or those of a family member.

The EJC is a private, non-profit organization with a mission to secure, promote, and protect workplace justice in the District. They combine legal services, community education, organizing, and advocacy work to achieve justice for low-wage workers.

Stated Phil about receiving these honors, "I have the utmost respect for what the EJC and the Stein Club do in their respective issue areas. To me, however, both are working toward the same goal: fair and equal treatment of the residents of the District of Columbia through the preservation and expansion of human rights. That is something which we all must support."



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Need Money for College??

Are you or a family member thinking of going to college, but are faced with the daunting task of navigating all of those financial aid forms? Participate in College Goal Sunday and get expert help in ensuring you have the best access to funds for your education!

Sunday, February 8th

2-5pm

THEARC (19th & Mississippi, SE)

or

MLK Library (9th & G, NW)

www.collegegoalsundayusa.org

Upcoming Hearings of the Judiciary Committee

Friday, February 6th at Noon, Room 412
"Delegation of Subpoena Power to the Chief of Police Pursuant to Mayor's Order 2008-154"

Thursday, February 12th at 10:30am, Room 123
"Bills 18-10, "Disclosure to the United States District Court Amendment Act of 2009", 18-68, "Office of Administrative Hearings Amendment Act of 2009", and PR 18-55, "Hearing Procedures for the Washington Humane Society Approval Resolution of 2009"

Call (202)724-7808 for more information.

A Word of Appreciation

Over the past few months, I have asked constituents, via listserves, to provide feedback on two important public safety issues: fire hydrants, and school crossing guards. You're diligent responses helped shed light on, and correct issues in, these two topic areas. I appreciate your invaluable input.