

CASE NO. 20-CI-004653

JEFFERSON CIRCUIT COURT  
DIVISION SEVEN (7)

LOUISVILLE-JEFFERSON COUNTY  
METRO GOVERNMENT for itself and on behalf of  
its Cabinets, Divisions, Departments, Officers and Employees

PLAINTIFF

and

ROBERT SCHROEDER,  
INTERIM CHIEF OF LMPD

INTERVENING PLAINTIFF

V.

**NOTICE-MOTION-ORDER**

LOUISVILLE METRO COUNCIL, ET. AL.

DEFENDANT

\*\* \*\* \*

**NOTICE**

Comes the Defendant Louisville Metro Council (“Metro Council”), by and through counsel, and gives notice that they will make the following motion on Monday, September 21, 2020 at 11:45 a.m. via conference call number 1-774-220-4000 and conference ID 595-4103.

**MOTION TO COMPEL OBEDIENCE TO SUBPOENA**  
**KRS 67C.103(14)(b)(3)**

Comes the Defendant Louisville Metro Council (“Metro Council”), by and through counsel, and, pursuant to KRS 67C.103(14)(b)(3), moves this honorable Court to enter the attached Order compelling Intervening Plaintiff, LMPD Interim Chief, Robert Schroeder’s (“Chief Schroeder’s”) obedience to a subpoena for his testimony. Because Chief Schroeder is retiring on October 1, 2020, time is of the essence to compel Chief Schroeder’s obedience to said subpoena. The following is offered in support of this motion:

1. This Court, by its September 8, 2020 Order, ruled that the Louisville Metro Council, acting through its Government Oversight and Audit Committee, (the “Committee”) may proceed with its subpoena of Chief Schroeder.
2. Following the Court’s Order, the Committee promptly re-noticed the subpoena to Chief Schroeder, for him to appear and testify on September 16, 2020. **Exhibit A.**
3. On September 16, 2020, Chief Schroeder appeared at Metro Hall, at the special meeting convened by the Committee, but he refused to testify, arguing, by and through his counsel, that he had a motion pending before this Court, appealing and seeking clarification with respect to the Court’s September 8, 2020 Order. At the hearing, Chief Schroeder, by and through counsel, communicated that he would not be speaking or answering any questions, of any kind, regardless of subject matter. Chief Schroeder, by counsel, specifically declined to testify about his retirement on October 1, 2020.
4. At that time, as Chief Schroeder refused to testify, there was no order of protection from any Court or authority which relieved Chief Schroeder of his obligation to comply with the subpoena. No stay or injunction, from any Court, was in place relative to the subpoena.
5. At the September 16, 2020 meeting, it is noteworthy that Louisville’s Chief of Public Safety, Amy Hess, cooperated with the Committee’s investigation by testifying. Numerous LMPD officers also cooperated on September 16, 2020 by testifying, without the need for subpoena. Among them was Deputy Chief LaVita Chavous, who is similarly situated to Chief Conrad in the sense that she is also a named defendant, in both her official capacity and her individual

capacity, in the case of *Scott et al v. Louisville/Jefferson County Metro Government, et al*, U.S. District Court W.D. KY No. 3:20-CV-00535- CRS.

6. Following Chief Schroeder's refusal to cooperate with the subpoena, on September 16, 2020, the Committee voted, pursuant to KRS 67C.103(14)(b)(3)<sup>1</sup>, to petition this Court to compel Chief Schroeder's obedience to their subpoena. This motion is filed accordingly.
7. This Court, through extensive motion practice and oral argument, has already heard from the parties regarding the Metro Council's subpoena to Chief Schroeder, with respect to this investigation, and the Court has affirmed the legality of this particular subpoena.
8. With the benefit of those arguments, the Court should enter the attached Order, compelling Chief Schroeder's obedience to said subpoena and ordering him to appear before the Committee on September 28, 2020 at 2:30pm and to cooperate with Metro Council's questioning. The Court should refrain from imposing any penalties on Chief Schroeder, on the condition that he complies with the Court's Order.
9. Time is of the essence, given that Chief Schroeder is set to retire on October 1, 2020, and that he may argue that the Metro Council might lose jurisdiction over Chief Schroeder on October 1, 2020. The question of whether the Metro Council retains subpoena authority over former employees, under KRS 67C.103(14), is an untested question under Kentucky law. These concerns were explicitly expressed by members of the Metro Council on September 16, 2020 including, but not limited to committee Chairman Brent Ackerson and committee member Kevin Kramer. Councilman Kramer, in particular, expressed a need to seek compliance with the subpoena as soon as possible.

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<sup>1</sup> KRS 67C.103(14)(b)(3) was satisfied by majority vote of the Committee: 9 in favor, 1 against, 1 present.

10. There is a strong public interest in hearing from Chief Schroeder regarding his role and knowledge with respect to the Plaintiff's actions and inactions with respect to the death of Breonna Taylor, the death of David McAtee, and related protests in Louisville. It would be contrary to the public interest and damaging to the Metro Council's legislative aims for the information and testimony of Chief Schroeder to be lost, upon his retirement.
11. The Committee, by counsel, has sought assurance from Chief Schroeder, by counsel, that Chief Schroeder will appear and testify before Metro Council after his retirement. However, Chief Schroeder, by counsel, has not provided any such assurances.

WHEREFORE, the Defendant requests that the Court enter the attached Order.

Respectfully Submitted,

/s/ Christopher D. Bush

Jonathan S. Ricketts (KBA #88540)

Christopher D. Bush (KBA #96659)

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*Counsel for Louisville Metro Council*

## **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing document was filed electronically with the Kentucky Administrative Office of the Courts on this the 16th day of September 2020, with service to the following:

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RICKETTS LAW OFFICES, PLLC  
*Counsel for Louisville Metro Council*

COMMONWEALTH OF KENTUCKY  
LOUISVILLE METRO COUNCIL  
GOVERNMENT OVERSIGHT AND AUDIT COMMITTEE

IN RE: INVESTIGATION INTO THE ACTIONS AND INACTION OF THE ADMINISTRATION SURROUNDING THE DEATH OF BREONNA TAYLOR, THE DEATH OF DAVID MCATEE, AND RELATED PROTESTS IN LOUISVILLE METRO

(AN INDEPENDENT INVESTIGATION PER LOUISVILLE METRO COUNCIL ORDER NO. 003, SERIES 2020)

LEGISLATIVE ( ☒ ) SUBPOENA ( ) SUBPOENA DUCES TECUM

To: **Robert Schroeder, Interim Chief, LMPD, 633 W. Jefferson Street, Louisville, KY 40202**

Pursuant to KRS 67C.103(14) and Metro Council Rule 4A.04(b), and a majority vote of the Government Oversight and Audit Committee, you are commanded to appear before the Government Oversight and Audit Committee at Historic City Hall, 601 West Jefferson Street, Louisville, KY 40202 on the 16th day of September, 2020 at the hour of 2:30pm.

X To testify before the Government Oversight and Audit Committee, relative to the above referenced independent audit or investigation.

       To produce work papers or documents described on **Attachment A** hereto

Your failure to obey this subpoena may subject you to contempt proceedings as provided in KRS 67C.103(14) and Metro Council Rule 4A.04(b).

Issued by: \_\_\_\_\_

Title: Presiding Officer, Government Oversight and Audit Committee  
601 West Jefferson Street, Louisville, KY 40202

Date: 9-8-2020

\*\*\*\*\*

TO BE COMPLETED WHEN THE WITNESS ACKNOWLEDGES SERVICE OF THE SUBPOENA

I hereby acknowledge receipt of a true copy of this subpoena:

Signed: \_\_\_\_\_

Date: 9/16/20

\*\*\*\*\*

TO BE COMPLETED WHEN SUBPOENA IS SERVED BY A NON-OFFICER OVER 18 YEARS OF AGE

I, \_\_\_\_\_, being first duly sworn state that I am over 18 years of age and that the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, I personally delivered a true copy of this subpoena to \_\_\_\_\_, who is known to me.

Signed: \_\_\_\_\_

COMMONWEALTH OF KENTUCKY

County of \_\_\_\_\_

Subscribed, sworn to and acknowledged before me by \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

My commission expires: \_\_\_\_\_

\*\*\*\*\*

TO BE COMPLETED WHEN SUBPOENA IS SERVED BY AN OFFICER

This subpoena was served by delivery of a true copy to \_\_\_\_\_, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

Signed: \_\_\_\_\_

Title: \_\_\_\_\_

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LOUISVILLE-JEFFERSON COUNTY  
METRO GOVERNMENT for itself and on behalf of  
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PLAINTIFF

and

ROBERT SCHROEDER,  
INTERIM CHIEF OF LMPD

INTERVENING PLAINTIFF

v.

LOUISVILLE METRO COUNCIL, ET. AL.

DEFENDANT

\*\* \*\* \*

**ORDER**

\*\* \*\* \*

Having considered the Defendant's KRS 67C.103(14)(b)(3) motion, hearing from the Intervening Plaintiff, by counsel, and being otherwise sufficiently advised; the Court finds that Intervening Plaintiff Chief Schroeder failed to comply with a lawful subpoena by the Louisville Metro Council's Government Oversight and Audit Committee and, in so doing, he has subjected himself to this Court's contempt powers pursuant to KRS 67C.103(14)(b)(3). The Court refrains from imposing any penalties against Chief Schroeder at this time, and **HEREBY ORDERS** Chief Schroeder to appear before the Louisville Metro Council Government Oversight and Audit Committee and testify on Monday, September 28, 2020 at 2:30pm at Historic City Hall, 601 West Jefferson Street, Louisville, KY 40202. Chief Schroeder shall avoid contempt and any associated penalty by so testifying. Recognizing the exigencies at play, the Court sets this matter for a contempt hearing on September 29, 2020 at \_\_\_\_\_ a.m./p.m. should Chief Schroeder not testify as ordered.

SO ORDERED,

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JUDGE  
JEFFERSON CIRCUIT COURT

DATE: \_\_\_\_\_

Tendered by:

/s/ Christopher D. Bush  
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