

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

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UNITED STATES,	:	
	:	09-Civ.-0849
Plaintiff,	:	
	:	AFFIRMATION OF
v.	:	SAM MAGAVERN IN SUPPORT
	:	OF NON-PARTIES' MOTION
ERIE COUNTY, NEW YORK, et al.,	:	TO QUASH SUBPOENAS
	:	
Defendants.	:	
_____X	:	

I, Sam Magavern, an attorney admitted to practice in the State of New York, state as follows:

1. I am co-director for the Partnership for the Public Good (PPG).
2. PPG is a very small 501c(3) non-profit organization whose mission is to build a more just, sustainable, and culturally vibrant community through action-oriented research, policy development, and citizen engagement.
3. Each year, PPG's partner organizations – a diverse array of non-profits, community groups, faith groups, educational institutions, etc. – set policy priorities for the coming year which, among other things, guide PPG's work. For the past two years, one of the priorities identified has been to help improve conditions at the Erie County Holding Center.
4. Accordingly, for the past two years PPG has assisted its partner organizations with research, policy development, and citizen engagement related to the Holding Center. The bulk of PPG's effort in recent years was devoted to the establishment of a Community Advisory Board for the Holding Center. PPG's main role was to provide advice on the drafting of a county resolution to establish a Community Advisory Board, testimony in support of that resolution, and a public forum to educate the public on the issue.
5. PPG incorporated in July 2009 and received 501c(3) status in April 2010. The staff consists of two volunteer co-directors and one paid, part-time director of programs, who works three days a week. We have a board consisting of seven members. Almost all of our work is done through the volunteer efforts of our co-directors, board, and partner organizations.
6. PPG's current annual budget is roughly \$29,800.
7. PPG does not have the resources to respond to the subpoena served on us by Erie County. We do not have the staff required to search for all the documents that might be responsive, especially given that the subpoena has no time limitation and requires us to search

the records of our “members, directors, chairs, and/or agents.” We do not have IT support to search for electronic records that apparently would be required to respond to this subpoena in good faith. Almost all of our budget goes to the salary of our one, part-time staff person. Responding to this subpoena, if it is even possible, would temporarily paralyze our organization and prevent us from providing the free public forums, policy research, and other services that we provide to our partner organizations and the general public.

8. We are also afraid that producing the documents requested by this subpoena to Erie County would disclose our advocacy strategies and thereby reduce the effectiveness of our advocacy work. For example, documents we have received from third parties regarding the jails might reflect strategic communications we never intended to expose to the County’s scrutiny.

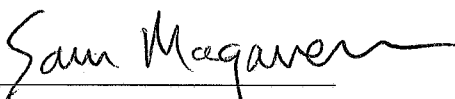
9. We are also afraid that having to disclose certain communications and documents would reveal the identities of members and people associated with our work who wish to remain anonymous, or at least anonymous to the County and to people in our community who might react poorly to their work on behalf of people accused or convicted of crimes.

10. We are concerned that responding to the subpoena will chill open communication between us and elected officials, county staff, partner organizations, members of the public, and former inmates. People who have worked with us on Holding Center issues may be less likely to do so if they know that documents they share with us may be turned over to the County. If our communications and documents we exchange are exposed in this way, it will significantly hamper our ability to do our work.

11. Finally, if we are required to respond to this subpoena it will chill our right to petition the federal government. If we know that our communications with DOJ must be shared with the County, we will be less likely to engage in such communications. At a very minimum, we will have to restrict the content of our communications to protect ourselves and the people we work with.

12. For all of these reasons, I respectfully ask on behalf of PPG that the Court quash the subpoena served on us by Erie County in this action.

Dated: July 20, 2011
Buffalo, New York



Sam Magavern