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FOR SETTLEMENT PURPOSES**

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA**

_____	:	
RAYMING CHANG, et al.,	:	
	:	
Plaintiffs,	:	
	:	
v.	:	Civ. Action No. 02-02010 (EGS)
	:	
UNITED STATES OF AMERICA, et al.,	:	
	:	
Defendants.	:	
_____	:	

**OFFER OF JUDGMENT PURSUANT TO FED. R. CIV. P. 68  
BY DEFENDANT DISTRICT OF COLUMBIA TO PLAINTIFF MEAGHAN ENRIGHT**

On this 21st day of April, 2005, defendant District of Columbia offers judgment, pursuant to Fed. R. Civ. P. 68 to Plaintiff Meaghan Enright, ("Plaintiff"), upon the following terms:

**Scope of Offer of Judgment and Resultant Judgment/Settlement**

1. This Offer may only be accepted by Ms. Enright in resolution and satisfaction of all claims that have been or could have been brought by her against the District of Columbia and any and all persons who are now or ever have been agents, employees, officers, or officials of the District of Columbia at any time.

2. The District of Columbia and any and all defendants in this case who are now or ever have been agents, employees, officers, or officials of the District of Columbia at any time deny culpability and/or liability for or upon any claim asserted by Plaintiff in this matter. Entry of judgment based upon this Offer shall have no collateral estoppel or *res judicata* effect, whatsoever, or otherwise preclude these defendants from asserting any defense. Plaintiff is not a prevailing party.

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FOR SETTLEMENT PURPOSES**

**Financial Consideration**

3. The District of Columbia will pay the "Settlement Amount" of a total of \$46,500 to Plaintiff in full satisfaction of all of Ms. Enright's claims for damages and other monetary relief encompassed by the Amended Complaint or any subsequently-filed complaint, including claims for attorneys fees and/or other costs incurred in prosecuting this action through the date of this Offer, April 21st, 2005. Plaintiffs' "claims for attorneys fees and/or other costs incurred in prosecuting this action through the date of this Offer" means 1/7<sup>th</sup> of the gross total of all fees and/or other costs incurred by or on behalf of any and all plaintiffs in prosecuting this matter through the date of this Offer. Accordingly, upon entry of Judgment pursuant to Plaintiff's acceptance of this Offer, the gross/total claim for attorneys fees and/or other costs incurred by any and all plaintiffs in prosecuting this action through the date of this Offer shall be decreased by 1/7<sup>th</sup> by operation of the entry of Judgment pursuant to Plaintiff's acceptance of this Offer. Plaintiff agrees, personally and on behalf of his attorneys, that under no circumstances may he or his attorneys obtain any monetary relief and/or recovery for any claims encompassed by this Offer in addition to this \$46,500 from the District, or from any current or former official, officer, agent, or employee or any person who was an official, officer, agent, or employee of the District based upon Ms. Enright's claims.

4. The Settlement Amount is payable only from the funds of the District of Columbia and may not be collected from any other defendant in this action or from any other person or entity.

5. Any judgment that may result from Plaintiff's acceptance of this Offer of Judgment may not be docketed, recorded, or reported for any purpose against any defendant other than the District of Columbia.

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

**Additional Relief**

**A. Expungement and Sealing of Arrest Records**

6. The District of Columbia will expunge all records in the possession of its Executive Branch (including all records in the possession of the Metropolitan Police Department, and the Office of the Attorney General for the District of Columbia) pertaining to the arrest of Plaintiff Enright at Pershing Park on September 27, 2002 and will employ best efforts to procure the expungement of all records in the possession of the United States Government (including but not limited to the Federal Bureau of Investigation) and any other state or local government pertaining to the arrest of Plaintiff Enright at Pershing Park on September 27, 2002.

7. The District of Columbia, Charles H. Ramsey, Michael J. Fitzgerald, Brian K. Jordan, and Peter J. Newsham will not oppose a motion, pursuant to District of Columbia Superior Court Rule of Criminal Procedure Rule 118 seeking the sealing of the records of Plaintiff Enright pertaining to his arrest at Pershing Park on September 27, 2002.

8. The District of Columbia will either (1) procure the expungement or delivery to Plaintiff's counsel of all records in the possession of the United States government (including, but not limited to the Federal Bureau of Investigation) and any other state and local government pertaining to the arrest on September 27, 2002, or resulting detention or charge of Plaintiff Enright; or (2) if the District is unable (in whole or in part) to procure this relief, inform Plaintiff Enright in writing of the specific steps, and the results thereof, taken by the District in an effort to procure it.

9. The District of Columbia, Charles H. Ramsey, Michael J. Fitzgerald, Brian K. Jordan, and Peter J. Newsham will not oppose any motion by Plaintiff to the United States District Court for the District of Columbia in this case seeking an order declaring his or her arrest

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

at Pershing Park on September 27, 2002 to be a nullity and/or seeking an order allowing Plaintiff Enright to deny the occurrence of his or her arrest at Pershing Park on September 27, 2002, without being subject to any penalty of perjury, fraud or other offense premised upon misrepresentation or deception, in response to any query, whether posed orally or in writing.

**B. Conciliatory Statement**

10. Chief Ramsey will personally sign the following conciliatory statement, addressed to Plaintiff Enright, and presented to him through his attorneys, within thirty days after Plaintiff accepts this Offer:

Dear Ms. Enright:

The District of Columbia government has carefully examined the events of September 27 and 28, 2002, concerning arrests and detentions that occurred on those days. Our investigation shows that our handling of various aspects of those events was flawed. Our investigation also shows that you should not have been arrested or detained. On my own behalf, and that of the Government of the District of Columbia, we sincerely regret any hardship that our mistakes of September 27 and 28, 2002 may have caused you or persons close to you.

Through our review of those events, informed in part by your testimony, the District government has identified and implemented measures to prevent a recurrence of the events in question. To implement these measures, Mayor Williams and I have worked hard with the Metropolitan Police Department and the Office of the Attorney General for the District of Columbia to assure that the District of Columbia Government carries out its duty to ensure that persons may enjoy free and open expression in this city with the utmost confidence that their constitutional rights will be respected.

I hope that you will be comfortable in the future in peaceably and lawfully exercising your First Amendment rights in the Nation's Capital.

Sincerely,

CHARLES H. RAMSEY  
Chief

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

**C. Revisions to MPD Mass Demonstration Policing**

11. The District of Columbia will conduct its policing of and related to mass demonstrations in a manner to achieve the following objectives, which are identified as Objectives (a) through (j), below.

12. Further, the District will perform and demonstrate performance of its mass demonstration policing conduct in accordance with the Objectives through objectively verifiable means and methods. One such method will be the inclusion of certain provisions governing MPD mass demonstration policing published in the MPD's Mass Demonstration Handbook or other specified appropriate MPD publications. Those provisions are the "Provisions Addressing Objectives" ("PAO's") which are set forth immediately following the respective Objective to which each applies most directly.

13. In addition to or in lieu of PAO's in the instances of some Objectives, the District will employ other measures ("Measures") to achieve the Objectives. Those Measures are reflected below immediately following the respective Objective to which each applies most directly, either solely, or in combination with one or more PAO's. Inclusion of these PAO's in the MPD's Mass Demonstration Handbook or other specified MPD publication, as identified to each respective Objective, coupled with performance in accordance with the respective provision, and/or performance of the Measure(s) immediately following each Objective (a) through (j) below satisfies the respective Objective.

**Objective (a)**

- (a) Before ordering or approving a mass arrest, the commanding officer responsible for ordering or approving a mass arrest must verify that all requirements of the law and MPD procedures for effecting a valid mass arrest have been satisfied and verify that some means exist to match each person to be arrested with a specific offense which there is probable cause to believe that person committed.

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

**PAO for Objective (a)**

Objective (a) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following PAO's, coupled with MPD's compliance with this provision in responding to mass demonstrations.

a.1. Issuance of warnings should be made by the unit commander or that commander's designee and made from stationery vantage points that are observable to the crowd or to a large number of participants.

a.2. Whenever possible, an official deeming it necessary to issue warnings shall confer with the unit commander to explain the official's basis for believing that a warning should be issued. The commanding officer shall make any inquiries necessary to satisfy himself or herself whether the issuance is justified and direct that the issuing official act accordingly. This process is to be repeated as necessary during the course of the demonstrations.

a.3. The issuing official shall recommend to the unit commander whether arrests should be made. If the issuing official recommends that a mass arrest be commenced, the unit commander shall satisfy himself or herself that probable cause exists for the arrest of all persons to be arrested. The unit [incident] commander should make the inquiries reflected on the "Pre-Mass Arrest Checklist"<sup>1</sup> in order to verify that a mass arrest is proper and lawful. The arrest of

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1 The Pre-Mass Arrest Checklist provides as follows:

**Has the Official recommending a mass arrest articulated justification for a mass arrest on these bases?**

What actions by the persons to be arrested require the proposed mass arrest?

Has anyone been injured? Who? What was the cause of the injury?

Has property been damaged? What? What was the cause of the damage?

Will an effort to arrest likely cause more injuries than alternative police action?

Will an effort to arrest likely cause more property damage than alternative police action?

Will an effort to arrest likely cause greater disruption of traffic flow (or potentially block evacuation routes) than alternative police action?

What are the offenses committed/to be charged?

What evidence provides probable cause for the arrest upon those charges as to each person? **You must have articulable probable cause to make any arrest.**

If the offense is incommoding, unlawful assembly, parading without a permit and/or failure to obey a police order:

How many orders to disperse were given?

How were the orders communicated?

When was each given?

Who gave each order to disperse?

Were audio and/or video recordings made of the warnings?

Is there another way to gain control of the situation?

Is there a viable alternative to a mass arrest?

Is dispersal of the crowd and arrest of a smaller number of persons as the group disperses reasonable?

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

every person to be arrested must be supported by probable cause. An issuing official shall not recommend the arrest of any person unless he or she has probable cause to support the arrest of that person. A unit commander shall not order the arrest of any person for whom he or she has not verified the existence of probable cause to arrest.

**Objective (b)**

- (b) An assembly of persons will not be arrested simply because the group does not possess a permit. Such an arrest may only occur after an order to disperse has been clearly communicated three times in a manner that is reasonably calculated to be heard by each of the persons in the group and after reasonable opportunity to disperse has been afforded, to the extent that circumstances reasonably permit, without increasing the risk of injury to persons or property through the actions of a substantial number of the assembly of persons.

**PAO for Objective (b)**

Objective (b) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following PAO, coupled with MPD's compliance with this provision in responding to mass demonstrations.

An assembly of persons will not be arrested simply because the group does not possess a permit. Such an arrest may only occur after an order to disperse has been clearly communicated three times in a manner that is reasonably calculated to be heard by each of the persons in the group and after reasonable opportunity to disperse has been afforded, to the extent that circumstances reasonably permit, without increasing the risk of injury to persons or property through the actions of a substantial number of the assembly of persons.

**Objective (c)**

- (c) All officers policing mass demonstrations and all officers guarding persons arrested at a mass demonstration shall be readily identifiable to demonstrators and arrestees.

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Is extraction of a limited number of offenders for observed offenders reasonable?  
Has the JOCC [Joint Operations Command Center] confirmed (or have you independently determined) that there are sufficient resources available to safely make number of arrests anticipated?

- Prisoner Control Activated
- Housing Space
- Feeding capabilities
- Arresting Officers (15-1 rule)
  - Transportation

How do other circumstances weigh in favor of or against ordering a mass arrest?

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FOR SETTLEMENT PURPOSES**

**Measure and PAO for Objective (c)**

Objective (c) is satisfied by the MPD's Measure of reflecting the badge number of each officer by affixing each officer's badge number to the front of that officer's helmet, immediately above the visor, and by MPD's inclusion in MPD's Mass Demonstration Handbook of the following provision, coupled with MPD's compliance with this provision and the helmet-numbering requirement in responding to mass demonstrations.

Each CDU Commander shall instruct such subordinate officials and officers as is appropriate under the circumstances that all uniformed, sworn personnel are to be inspected to ensure that they are properly wearing their badges and nameplates and that the badge numbers and names are not to be concealed, damaged, or tampered with, so as to interfere with the ability of the officer to be identified. When officers are directed to don CDU protective gear, including helmets, the officers are to affix their badge numbers to their helmets. Further, officers are prohibited from removing or tampering with their badges or nameplates and are required to verbally identify themselves when asked their identities. However, members are not to engage demonstrators in further conversation.

**Objective (d)**

- (d) The official responsible for ordering or approving a mass arrest must have successfully completed training within the previous year regarding the circumstances under which a mass arrest is legally permitted. Such training shall include discussion of the proper response(s) to the arrest scenarios presented in *Dellums v. Powell*, *Abbate v. Ramsey*, and *Chang v. United States of America*.

**Measure for Objective (d)**

Objective (d) is satisfied by the MPD's measure of providing to event officials who may reasonably be anticipated to command a situation presenting circumstances that may give rise to a mass arrest, training within the year preceding the event regarding the circumstances under which a mass arrest is legally permitted. Such training shall include discussion of the proper response(s) to the arrest scenarios presented in *Dellums v. Powell*, *Abbate v. Ramsey*, and *Chang v. United States of America*.

**Objective (e)**

- (e) Persons arrested in a mass arrest shall, as soon as reasonably possible following their arrests, be informed of their rights to contact an attorney and/or family member or friend and their rights regarding citation release, post and forfeit or court appearance, and the meaning and consequences of each.



**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

**POA's and Measures for Objective (e)**

Objective (e) is satisfied by MPD's measure of providing arrestees access to phones at processing centers from which the arrestees may place a call to contact an attorney and/or family member or friend, combined with the inclusion of the following provisions in MPD's Mass Demonstration Handbook, coupled with MPD's compliance with these provisions in responding to mass demonstrations.

- e.1. When all arrestees have boarded the transport vehicle, are safely seated and the transport vehicle has commenced its travel from the arrest location to the prisoner processing center, a member of the department is to read or play a recording of the text of the "Notification of Rights" form in a manner audible to all persons in the vehicle. Once at the prisoner-processing center, as arrestees are initially removed for processing the arrestee shall be provided a copy of the form to read. In addition, the text of the form is to be reflected on large signs that are to be placed conspicuously throughout the processing area.

The text of the Notification of Rights" to be presented verbally, on large signs, and in the "Notification of Rights" form, will contain the following text:

e.2. **Option 1 - YOU MAY ELECT TO "POST AND FORFEIT"**

If you choose to "Post and Forfeit," you will pay a certain amount of money and you will be released immediately and the charges against you will be dropped. You will never have to appear in court to answer the charges against you. You will also never have an opportunity to appear in court to contest the charges against you. You are required to prove your identity. A "post and forfeit" is not an admission of guilt, and you will have no criminal record on these charges. But you will have an arrest record on these charges.

If you are interested in the post and forfeit option, you will be provided with a list showing the amount you must pay depending on the charge for which you were arrested.

Your decision to post and forfeit is final unless you (or your attorney) file a "Motion To Set Aside Forfeiture" within 90 days of your arrest. Such a motion is not automatically granted. If it is granted, the charges against you will be reinstated and you will have to appear in court to answer them.

e.3. **Option 2 - YOU MAY ELECT TO BE RELEASED ON CITATION ("CITE OUT")**

You are eligible for citation release if you are arrested for a misdemeanor offense that does not involve domestic violence and there are no outstanding warrants for your arrest. You are not required to post any amount of money for citation release but you are required to prove your identity.

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

If you elect citation release, you will be given a citation (similar to a traffic ticket), requiring you to appear in D.C. Superior Court to answer the charges against you. Failure to appear in court in response to the citation is a criminal offense. If you fail to appear in court on the date specified in the citation, a warrant will be issued for your arrest.

When you appear in court, the government may dismiss the charges against you or may proceed to trial. If the government chooses to proceed to trial, you will have a right to be represented by an attorney and if you cannot afford an attorney one will be provided for you. The government will bear the burden of proving beyond a reasonable doubt that you committed the offense with which you have been charged. If you are convicted, you will have a criminal record in addition to your arrest record. If you are acquitted, you will not have a criminal record but you will still have an arrest record unless you are later able to get it sealed or expunged by proving to the court that you did not commit any crime.

**e.4. Option 3 - YOU MAY ELECT TO POST BOND (“POST AND TRIAL”)**

If you are not eligible for citation release, you may still be eligible to post bond. If so, you may post a cash bond amount assigned to the charge, or a licensed bondsman may agree to post the bond for you in return for a 10% fee. You are required to prove your identity. You will be provided with a list showing the amount you must post depending on the charge for which you were arrested.

You will be required to appear in D.C. Superior Court to answer the charges against you. Failure to appear in court is a criminal offense. If you fail to appear in court on the date specified, a warrant will be issued for your arrest.

When you appear in court, the government may dismiss the charges against you or may proceed to trial. If the government chooses to proceed to trial, you will have a right to be represented by an attorney and if you cannot afford an attorney one will be provided for you. The government will bear the burden of proving beyond a reasonable doubt that you committed the offense with which you have been charged. If you are convicted, you will have a criminal record in addition to your arrest record. If you are acquitted, you will not have a criminal record but you will still have an arrest record unless you are later able to get it sealed or expunged by proving to the court that you did not commit any crime.

**Objective (f)**

- (f) The MPD shall, as expeditiously as possible, process any person arrested in a Mass Arrest to determine whether the person is eligible for release pursuant to a lawful release option and shall promptly release any person so eligible who opts for the release. The MPD shall also promptly release any person arrested in a Mass Arrest, who, it is subsequently determined, should not be charged with any offense.

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FOR SETTLEMENT PURPOSES**

**PAO for Objective (f)**

Objective (f) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following PAO's, coupled with MPD's compliance with this provision in responding to mass demonstrations.

- f.1. The MPD shall, as expeditiously as possible, process any person arrested in a Mass Arrest to determine whether the person is eligible for release pursuant to a lawful release option and shall promptly release any person so eligible who opts for the release. The MPD shall also promptly release any person arrested in a Mass Arrest, who, it is subsequently determined, should not be charged with any offense.

**Objective (g)**

- (g) No upgrades or other maintenance of computer systems necessary for processing arrestees shall be scheduled to occur on days for which a plan for processing persons arrested in a mass arrest is in effect unless automated prisoner processing cannot be accomplished without performance of repairs or a remedial upgrade.

**POA for Objective (g)**

Objective (g) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following provision, coupled with MPD's compliance with this provision in responding to mass demonstrations.

- g.1. No routine computer upgrades are to be scheduled for or performed on days on which mass arrest prisoner processing is anticipated. Where automated prisoner processing cannot be accomplished without performance of repairs or a remedial upgrade, the Prisoner Processing Center(s) shall switch to manual backup processing procedures to accomplish prisoner processing.

**Objective (h)**

- (h) Manual backup procedures for processing arrestees shall be available on days for which a plan for processing persons arrested in a mass arrest is in effect.

**POA for Objective (h)**

Objective (h) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following provision, coupled with MPD's compliance with this provision in responding to mass demonstrations.

- h.1. Manual backup procedures for processing arrestees shall be available on days for which a plan for processing persons arrested in a mass arrest is in effect.

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FOR SETTLEMENT PURPOSES**

**Objective (i)**

- (i) MPD shall only use such restraints in the transporting, processing, and detention of persons as the Chief of Police or his designee determines to be reasonably necessary to maintain the safety of the arrestees and of MPD arresting, transporting, and/or processing personnel, and to prevent escape.

**POA for Objective (i)**

Objective (i) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following provision, coupled with MPD's compliance with this provision in responding to mass demonstrations.

- i.1. MPD shall only use such restraints in the transporting, processing, and detention of persons as the Chief of Police or his designee determines to be reasonably necessary to maintain the safety of the arrestees and of MPD arresting, transporting, and/or processing personnel, and to prevent escape.

**Objective (j)**

- (j) Handcuffs and flexi-cuffs shall not be applied in a manner that is excessively tight.

**POA for Objective (j)**

Objective (j) is satisfied by the inclusion in MPD's Mass Demonstration Handbook of the following provision, coupled with MPD's compliance with this provision in responding to mass demonstrations.

- j.1. All arrestees are to be secured in accordance with MPD G.O. 502.01. Where flex-cuff restraints are used to secure an arrestee's hands or arms, the officer applying the flex-cuffs must always check restraint tightness. To avoid injuries that may be caused by overtightening the restraints, when applying the flex-cuff, the officer is to draw the strap up only until the strap comes in contact with the arrestee's skin at all points. The officer is then to attempt to insert his or her index finger between the strap and the arrestee's wrist. If the officer cannot readily place his or her index finger between the strap and the arrestee's wrist, the officer is to immediately remove the flex-cuff and properly apply a new flex-cuff to prevent escape but no tighter.
- j.2. Officers are to give prompt attention to complaints that the cuffs are too tight. Even after using the precautionary measures indicated above to prevent overtightening of flex-cuffs, if the restrained person complains that the cuffs are too tight the officer should stop (if reasonably possible) and check the tightness of the cuffs. Even if the cuffs are properly applied the person could still have placed pressure on the cuffs or the person could have turned their hand within the cuff

**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

and caused constriction on part of the hand. If upon checking the cuffs the officer finds that the cuffs are too tight, the officer is to remove the flex-cuffs as soon as reasonably possible and replace them with flex-cuffs applied to fit properly. Further, if upon checking the officer finds that the flex-cuffs are at the appropriate tightness and there does not appear to be a problem, the officer need not loosen the cuffs. However, the officer should document in his/her report that upon complaint the cuffs were checked and found not to be too tight.

**Enforcement Provisions and Mechanisms**

14. Upon acceptance of this Offer of Judgment by Plaintiff Enright, she and the District of Columbia will notify the Court and all other parties to this action of the acceptance of this Offer (the accepted Offer is referred to hereinafter as the “Agreement”). Plaintiff and Defendant District of Columbia will move the Court to dismiss her claims with prejudice as against the District of Columbia and any and all persons who are now or ever have been agents, employees, officers, or officials of the District of Columbia at any time pursuant to the attached proposed Consent Order Dismissing Claims With Prejudice And Retaining Jurisdiction For Purpose Of Enforcing Agreement Under Fed. R. Civ. P. 41(a)(2) that provides for the Court to retain jurisdiction over this matter to make such orders as are necessary to remedy systemic material breaches of the terms of the Agreement upon acceptance of this Offer pursuant to the procedures defined below or to entertain any of the motions to this Court described in paragraph 9 or to enforce paragraphs 1 through 5.

15. Pursuant to this Offer and Agreement, the PAO’s and Measures, when complied with and performed, satisfy the various Objectives. Accordingly, pursuant to this Offer and the Agreement, any provision to be reflected in the MPD Mass Demonstration Handbook or other MPD publication as demonstrating MPD’s obligations in satisfaction of an agreed-upon Objective, and every Measure constituting partial or complete satisfaction of an Objective, will

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FOR SETTLEMENT PURPOSES**

remain in the Mass Demonstration Handbook and in effect until at least July 17, 2005. After July 17, 2005, the District of Columbia will notify Plaintiff Enright, through her counsel, at least forty-five (45) days before adopting any changes to the language and/or measures provided for by the Offer and Agreement, and will confer with Plaintiff Enright, and/or her counsel, regarding any such changes. The District of Columbia, nevertheless, may adopt such changes without the consent or approval of Plaintiff. Plaintiff Enright may not unreasonably withhold his consent or approval, but the District of Columbia may assert any such unreasonable withholding of consent only as a defense to an enforcement action under paragraph 16 below, and not as the basis for any affirmative claim for relief. In the event that four or more plaintiffs currently prosecuting this matter accept Offers of Judgment containing “Enforcement Provisions and Mechanisms” terms providing for post-judgment enforcement of the “Revisions to MPD Mass Demonstration Policing” and four or more of these plaintiffs having accepted such Offers of Judgment object to such changes, they may seek relief pursuant to the enforcement mechanism set forth in the Enforcement and Sunset Provision in paragraph 16, below.

16. The following Enforcement and Sunset Provision shall govern the enforcement of the Agreement:

The Court shall retain jurisdiction over this matter to make such orders as are necessary to remedy systemic material breaches of the Agreement pursuant to the procedures defined below or to entertain any of the motions to this Court described in paragraph 9 or to enforce paragraphs 1 through 5.

Plaintiff Enright shall, in accordance with the requirements of paragraphs 14 and 15 above, have standing to enforce the terms of the Agreement, according to the procedures set out below.

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FOR SETTLEMENT PURPOSES**

Before Plaintiff Enright moves the Court to enforce the Agreement, she shall give the District of Columbia written notice of and ninety (90) days to cure defendant's alleged systemic deficiencies that he contends constitutes a systemic material breach of the Agreement, unless the alleged material breach is the proposed adoption of a change or changes to the language and/or measures provided for by the Agreement, in which case the notice and cure period shall be forty-five (45) days. During the cure period, District Defendants shall have the opportunity to cure the deficiencies that Plaintiff Enright contends constitutes a material breach of the Agreement. The opportunity to cure shall also include good faith negotiations in face to face meetings between the District of Columbia and the *Chang* Plaintiffs having accepted Offers of Judgment as described in paragraph 15, above, seeking enforcement of the Agreement to resolve their differences without the need for Court intervention. Plaintiff Enright may not seek enforcement of the Agreement without satisfying the foregoing notice and cure provision.

A "systemic material breach" is either (a) the occurrence of conduct prohibited by the Objectives caused by implementation and/or enforcement of an MPD policy, or the decision of a District policymaker, which violates one or more Objectives in a manner causing injury in fact to one or more persons, or (b) adoption of any changes to the agreed-upon PAO's or Measures that are not reasonably likely to comply with the respective Objective(s). The terms "policy" and "policymaker" shall be defined as those terms are used for purposes of 42 U.S.C. Section 1983 as contemplated by *Monell v. Department of Social Servs.*,

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FOR SETTLEMENT PURPOSES**

436 U.S. 658 (1978); *Jett v. Dallas Indep. School Dist.*, 491 U.S. 701 (1989); and *St. Louis v. Praprotnik*, 485 U.S. 112 (1988).

The parties agree that the MPD may include a provision in any PAO, Measure, General Order, Special Order, teletype, guideline or other written MPD directive that officers refrain from engaging demonstrators in conversation that is not necessary to the satisfaction of any Objective. Such provisions serve the desired function of reducing the likelihood of miscommunications, contradictory communications, and avoidable confrontations.

The terms of the Agreement shall remain in effect through and including January 17, 2008, immediately after which time this agreement shall become null and void and the jurisdiction of the Court to enforce the Agreement will lapse except to the extent that a matter timely and properly presented to the Court pursuant to the Enforcement and Sunset Provision is still pending before the Court.

17. The District of Columbia and Plaintiff Enright agree that multiple originals of this Offer of Judgment may be executed.

Respectfully submitted,

ROBERT J. SPAGNOLETTI  
Corporation Counsel, D.C.

GEORGE C. VALENTONE  
Deputy Attorney General  
Civil Litigation Division

s/ Richard S. Love  
RICHARD S. LOVE [340455]  
Chief, Equity Section I

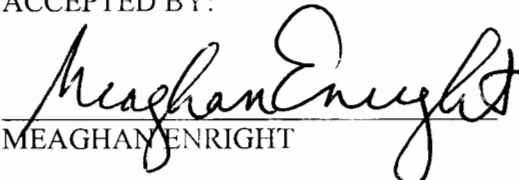
s/ Thomas L. Koger  
THOMAS L. KOGER (427921)



**CONFIDENTIAL  
FOR SETTLEMENT PURPOSES**

s/ Lori S. Parris  
LORI S. PARRIS (467455)  
Senior Litigation Counsel  
441-4<sup>th</sup> St., N.W., Sixth Floor  
Washington, D.C. 20001  
(202) 724-6610  
Attorneys for Defendants District of  
Columbia and Charles H. Ramsey, Michael  
J. Fitzgerald, and Brian K. Jordan

ACCEPTED BY:

 on May 2, 2005  
MEAGHAN ENRIGHT

**CERTIFICATE OF SERVICE**

I hereby certify that on this 21st day of April, 2005, I caused the foregoing

**OFFER OF JUDGMENT PURSUANT TO FED. R. CIV. P. 68  
BY DEFENDANT DISTRICT OF COLUMBIA TO PLAINTIFF MEAGHAN ENRIGHT**

to be served By HAND and BY ELECTRONIC TRANSMISSION upon:

Daniel C. Schwartz, Esq.  
David Zetoony, Esq.  
Elizabeth Martin, Esq.  
Bryan Cave, LLP  
700 Thirteenth Street, N.W., Suite. 700  
Washington, DC 20005

and by ELECTRONIC TRANSMISSION upon Jonathan Turley, Esquire.

/s/ Thomas L. Koger  
THOMAS L. KOGER