

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

ALLIANCE FOR GLOBAL JUSTICE, )  
et al., )  
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Plaintiffs, )  
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DISTRICT OF COLUMBIA, )  
et al., )  
 )  
Defendants. )  
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Case No.: 01-CV-00811 (PLF)(JMF)

**STATEMENT PURSUANT TO LCvR 7(h) OF MATERIAL FACTS  
AS TO WHICH THE PLAINTIFF CLASS AND PLAINTIFF ELIZABETH BUTLER  
CONTEND THERE IS NO GENUINE ISSUE**

Pursuant to LCvR 7(h), the plaintiff class and plaintiff Elizabeth Butler, by and through undersigned counsel, respectfully submit this Statement of Material Facts.

1. All members of the Alliance for Global Justice plaintiff class were arrested for “parading without a permit.” See Ex. 29, CJIS printouts (filed under seal); Ex. 30, MPD Collateral List (filed under seal).<sup>1</sup>
2. The District of Columbia stipulates that it was aware of the passage of the act that decriminalized traffic offenses. See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 106:17 – 107:5.
3. The District of Columbia admits that after the Traffic Adjudication Act of 1978 parading without a permit became identified as a civil infraction pedestrian offense in the District of Columbia Municipal Regulations. Id. at 105:11 – 106:11; Ex. 5, Herold Dep. at 181:1 – 8, 182:1 – 4 (CDU Coordinator

<sup>1</sup> These records are incomplete and do not encompass all members of the plaintiff class. Approximately four hundred (400) persons from the class are identified either specifically by name or as a Jane or John Doe each with the charge of parading without a permit. Arrestees, including class representatives, who did provide their identifying information are still missing from MPD lists, including the complete data from the CJIS system, plus other MPD sources of information. It may be that these additional persons were released through the Superior Court of the District of Columbia, which could account for their absence in the MPD created arrest data. Nevertheless, the existing lists do suffice to evidence the repeated use of the “parading without a permit” charge.

Captain Jeffrey Herold concedes that parading without a permit “is a civil infraction” and a “traffic offense”).

4. During the tenure of Chief of Police Ramsey, including on the date of the mass arrest in this case, the District maintained a policy or practice authorizing the arrest of protestors for parading without a permit. See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 103:13 – 17; Ex. 6, District of Columbia Rule 30(b)(6) Dep. (DC designee Herold) at 40:14 – 41:4.
5. The District of Columbia admits that the MPD lacked the lawful authority to arrest the plaintiff class for parading without a permit on April 15, 2000. See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 107:18 – 108:2, 108:12 – 22.
6. The District’s designated spokesperson, Patrick Burke, the current Commander of the DC MPD’s Homeland Security and Special Operations Division, is uncertain as to how the MPD could have justified a policy or practice authorizing arrests for parading without a permit. “I can only assume that we didn’t know it was not a criminal charge.” See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 107:15 – 17.
7. The OCC’s spokesperson at the time of the April 2000 mass arrest at issue, Leigh Slaughter, told the media that it was an error to arrest the plaintiffs for parading without a permit because that was a non-arrestable infraction, like a jaywalking ticket. See Ex. 9, Carrie Johnson, “Arrested Protestors Flood Superior Court,” *The Legal Times*, April 17, 2000 at 1. No correction was made. See Ex. 10, Affidavit of Crystal Kim.
8. The OCC directed that all MPD forms 759 (sworn field arrest forms) for the hundreds of arrestees in the plaintiff group in this case be “rewritten” after the fact in order to change the charge from parading without a permit. See Ex. 11, running resume of April 16, 2000 at 32.
9. Field arrest forms are to be executed contemporaneous with the arrest. When an officer executes a field arrest form he or she is swearing and attesting that she personally observed the arrestee engaged

in specifically identified offending conduct. See Ex. 24, Chang v. United States of America, Civil Action No. 02-2010, Herold Dep. at 96:7 – 100:4, 197:2 – 6.

10. The MPD fully admits that it cannot identify even a single officer to testify that she or he observed any particular arrestee engaged in allegedly unlawful conduct. The District of Columbia admits that it would be “futile and pointless” to go through the lists of arrestees and ask whether there is an officer who saw the person engaged in unlawful conduct because the MPD cannot identify even one single officer who can provide testimony that she or he observed any particular arrestee engaged in unlawful conduct. See Ex. 6, D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 77:6 – 78:10.
11. According to police accounts, the targeted march and the arrested plaintiff class were at all times peaceful. There are no allegations of vandalism or property destruction or violence. Id. at 237:9 - 17 (there was “no violence involved in that demonstration” and the District makes no allegations of vandalism associated with the march either); Ex. 5, Herold dep. at 168:1 (“I would categorize them as nonviolent.”); Ex. 14, Gary Fitzgerald dep. at 78:9 – 13 (when trapped and surrounded, plaintiffs were simply milling about, some sitting down); Ex. 15, Gainer dep. at 155:16 – 21 (when plaintiffs were trapped and surrounded, “for the most part, they were either standing or shifting on their feet or milling about.”)
12. The MPD knew that there were present persons completely unconnected to any allegedly offending conduct, and consequently lacked probable cause to arrest the group as a group, i.e., to arrest on *any charge* everyone who happened to be upon that public block. Commander Jose Acosta fully admits that he knew at the time of the arrests that the police lines had surrounded uninvolved people who happened to be on 20<sup>th</sup> Street between I and K Streets at the moment the trap was sprung. “There was a mixture of people in place [within the arrest zone formed by the two police lines] at the time when the march got there.” See Ex. 16, Acosta dep. 133:2 – 3. There were “several bus loads of tourists” in the area. Id. at 133:21. “The protest march was there. Obviously there were a lot of other people there, too.” Id. at 97:19 – 21.

13. Once the police lines were established, and hundreds trapped therein, there was no avenue of exit. See Ex. 14, Fitzgerald dep. at 112 – 117 (arrestees given no opportunity to disperse and he observed no avenues of exit once police lines were executed).
14. Herold attests that people approached police lines and presented circumstances or requests to leave and that none were allowed to avoid arrest (with the exception of certain selected journalists). See Ex. 5, Herold Dep. at 189:7 – 15
15. The District concedes that probable cause to arrest an individual for parading without a permit did not exist where that person had marched or traveled solely upon the sidewalk during the march. See Ex. 17, Ramsey dep. at 196:9 – 15; Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) at 135:14 – 136:2; Ex. 16, Acosta dep. at 106:16 – 21; Ex. 4, D.C. Rule 30(b)(6) Dep. (D.C. designee Burke) at 109:10 – 15. According to the District, that rule holds true even for a protestor who walks on the sidewalk alongside persons who parade in the roadway without a permit. See Ex. 6, D.C. (D.C. designee Herold) at 142:12 – 14.
16. Yet, at the time of the arrests the MPD had made no effort to determine whether any of the people who were arrested had, in fact, been on the sidewalk the whole time. See Ex. 17, Ramsey dep. at 197:3 – 8. Ramsey admits that he does not know “who was on the street and who wasn’t on the street” when the police lines were established. Id. at 161:15 – 21. Ramsey does not recall asking anyone whether there were uninvolved pedestrians within the arrest zone as it was executed. Id. at 161:22 – 162:6. Herold made no efforts, either, to determine whether the area had been cleared of uninvolved pedestrians before it became an arrest zone. See Ex. 5, Herold dep. at 158:19 – 159:7;
17. The only category of persons who were allowed to leave the arrest zone, to escape arrest despite having travelled with the march, were selected credentialed journalists/media. Id. at 189:7 – 192:4. According to Terrence Gainer, it was a practice of the MPD to allow credentialed journalists to be exempt from arrest “out of respect and deference” to their First Amendment rights. See Ex. 15, Gainer Dep. at 177:16 – 178:11. Independent media or freelance journalists were not allowed to leave, even though they too had been caught in the arrest zone. There was no general announcement

that credentialed media could leave. They had to know, and also have the opportunity, to present themselves near Herold or another supervisor for de-arrest. See Ex. 5, Herold dep. at 189:11 – 192:4. Less than ten knew or were able to do so. Id. at 191:3.

18. A final investigatory report, produced internally by the MPD after charges of misconduct in the mass arrests of protestors in September, 2002, found as follows with respect to the April, 2000 mass arrest at issue in this litigation: “It now appears that many non-involved witnesses and passers-by were corralled along with hundreds of actual protestors and arrested in that [April, 2000] event. The Metropolitan Police Department has to carefully examine the logistics, but more importantly, the likely ramifications of placing hundreds of protestors and bystanders under arrest . . . [The MPD] must carefully consider its actions from an inescapable litigious standpoint. A meeting was recently held by the Office of the General Counsel and attended by representatives from the Office of the Corporation Counsel, Civil Rights and Force Investigation Division, and Special Services Command. This was an important first step in analyzing current practices with a view toward reducing liability...” See Ex. 18, Final Report Relative to Complaints of Misconduct Made at the October 24, 2002 Hearing of the Committee of the Judiciary of the Council of the District of Columbia, Concerning the IMF/World Bank Protests, report dated January 21, 2003 at 16.
19. In a rule 30(b)(6) testimony, the District of Columbia concedes that there is only one final report and it is so denominated as the “Final Report Relative to Complaints of Misconduct. . .” See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 51:9 – 19, 53:11 – 19; See genl’y, id. at 47:19 – 55:21
20. All internal investigatory report *drafts*, which were sent up through the chain of command for review and comments and changes, were entitled as “Updates.” See, Ex. 31, “Update Relative to Complaints of Alleged Misconduct made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia Concerning the IMF/World Bank Protests,” report dated November 27, 2002; Ex. 32, “Third Update Relative to Complaints of Alleged Misconduct made at

the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia Concerning the IMF/World Bank Protests,” report dated January 2, 2003; Ex. 33, “Second Update Relative to Complaints of Alleged Misconduct made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia Concerning the IMF/World Bank Protests,” report dated December 17, 2002; Ex. 18, “Report Relative to Complaints of Alleged Misconduct Made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia, Concerning the IMF/World Bank Protests,” report dated January 21, 2003; Ex. 34, “Report Relative to Complaints of Alleged Misconduct Made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia, Concerning the IMF/World Bank Protests,” report dated January 25, 2003; Council of the District of Columbia Report, “Report on Investigation of the Metropolitan Police Department’s Police and Practice in Handling Demonstrations in the District of Columbia,” at 69 (all earlier unsigned drafts that were provided to Chief Ramsey had a subject line with the words “Update Relative to Complaints of Alleged Misconduct Made at the October 24, 2002, Hearing of the Committee on the Judiciary of the Council of the District of Columbia Concerning the IMGF/World Bank Protests”).

21. All unsigned draft reports were sent to the Chief of Police, among others, for review. See Ex. 18, 31-34, 36, (Chief of Police Ramsey is in the distribution list of all drafts).
22. The opening paragraph of the final report explicitly represents the substance to be the final investigatory report. See Ex. 36 (“This memorandum serves as the final investigative report of the Metropolitan Police Department as it relates to complaints of alleged misconduct. . .”).
23. All of the draft reports open with a paragraph describing their substance to be updates or summaries of investigatory progress or as “addressing complaints of alleged misconduct” and none purport to be a final investigatory report. See Ex. 31, dated November 27, 2002 (“This memorandum summarizes the investigative activity of the Metropolitan Police Department as it relates to Complaints of Alleged Misconduct. . .”); Ex. 33, dated December 17, 2002 (“This memorandum updated the November 27, 2002 summary of the investigative activity of the Metropolitan Police Department as it relates to

Complaints of Alleged Misconduct . . .”); Ex 32, dated January 2, 2003 (“This memorandum updates the December 17, 2002 summary of the investigative activity of the Metropolitan Police Department as it relates to Complaints of Alleged Misconduct . . .”); Ex. 18, dated January 21, 2003 (“This memorandum addresses complaints of alleged misconduct . . .”); Ex. 34, dated January 25, 2003 (“This memorandum addresses complaints of alleged misconduct. . .”)

24. The final report is signed by Captain Matthew Klein, Commanding Officer, Force Investigation Team. All drafts by Captain Klein are unsigned. See, Ex. 36, Final Report (signed in handwriting by Captain Matthew Klein as Commanding Officer of the Force Investigation Team); Ex. 31, dated November 27, 2002 (unsigned); Ex. 18, dated January 21, 2003 (unsigned signature block); Ex. 34, dated January 25, 2003 (unsigned signature block).
25. The District of Columbia, through spokesperson Matthew Klein, attests in Rule 30(b)(6) deposition given in Barham v. District of Columbia, that the Final Report was reviewed for accuracy at the time of its completion, D.C. Rule 30(b)(6) Dep. (D.C. designee Klein) at 116: 18 – 117:2,<sup>2</sup> that the language and text of the Final Report was accurate and correct at the time of the report’s completion, id. at 117:9 – 12, and continues to date to be accurate, id. at 117:13 – 15.
26. With respect to the excerpt cited above pertaining specifically to the April 15, 2000 mass arrest, the District testified that it possesses no reason to believe that the substance is inaccurate. See Ex. 4, D.C. Rule 30(b)(6) Dep. (DC designee Burke) at 191:14 – 192:6, and *admits that uninvolved persons were arrested in the April 15, 2000 mass arrest*, id. at 193:6 – 10.
27. The march in the instant case was admittedly fluid, See Ex. 6, D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 265:9 – 266:2 (march was not static, was spread out “everywhere” and at times over five city blocks).

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<sup>2</sup> The Final Report is referenced as Exhibit 7 in the Rule 30(b)(6) Deposition of the District of Columbia, through Matthew Klein, in Barham v. District of Columbia. See, Exhibit 7 to that deposition, located as Exhibit 36 to this filing.

28. Just before the arrest, the group was not cohesive. It was “fragmented” and “more strung out than a tightly knitted cohesive group.” See also Ex. 6, D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 146:18 – 22.
29. Commander Acosta attested to the changing composition of the march. “A lot of people came and joined them, splintered in. They were feeding all the time. Just because you have one group at the start doesn't mean you have other people that didn't join with them.” See Ex. 16, Acosta Dep. at 120:1 – 6.
30. The District admits, through Rule 30(b)(6) deposition testimony, that no order to disperse was given to the class. D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 264:12 – 265:2 (unit commanders not instructed to provide an order to disperse to the class because “there was no reason to disperse the crowd”); id. at 281:5 – 10 (no attempt to disperse the crowd); id. 282:10 – 14 (“there was no intent on the police department to disperse this crowd”); id. at 283:8 – 284:6 (same); id. at 298:20 – 21 (same); 299:22 – 300:1 (Police did not, in accord with policy, order the crowd to disperse); Herold Dep. at 154:16 – 21 (neither Herold nor anyone else gave orders to disperse); id. at 175:11 – 18 (gave no orders to disperse); id. at 177:3 – 16 (in on-scene command meetings, the subject of orders to disperse never even came up); id. at 210:3 – 8 (no need to give order to disperse before mass arrest); Gainer dep. at 161:9 – 163:6 (did not ask if warnings to disperse were given, there is no obligation to give such warnings); Officer Fitzgerald dep. At 112 – 117 (protestors given to opportunity to disperse and he observed no avenues of exit).
31. Not one of the class representatives heard a warning either to leave the streets or heard *any* directive or order that indicated imminent arrest absent compliance with a directive. See Ex. 19, a – n.
32. It was the de facto policy and practice under Chief Ramsey and Assistant Executive Chief Terrance Gainer to mass arrest for parading without a permit without first providing a lawful order to disperse followed by a reasonable opportunity to comply. It was the de facto policy and practice for the MPD to engage in mass arrests of persons associating with First Amendment protected activity without any

warning to the group at all. See Ex. 15, Gainer dep. at 161:9 – 163:6 (no need under policy to give the group as a whole notice or warning and opportunity to comply), 219:18 – 222:4 (“I don’t believe that warning was required [prior to arrest] for marching, parading without a permit”); Ex. 17, Ramsey dep. at 199:16 – 200:7 (“We do not have to first give them an order to disperse” if persons are parading without a permit); Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) at 210:3 – 16 (“not necessary” that there first be an order or request to disperse in the context of use of police lines to cordon demonstrations and effect a mass arrest).

33. According to the District of Columbia’s Rule 30(b)(6) deponent, if police allowed any marching to proceed without an advance written permit, the police were not authorized to arrest for parading without a permit absent provision of a clearly audible general order to the crowd to disperse the march. See Ex. 4, District of Columbia 30(b)(6) Dep. (D.C. designee Burke) at 111:10 – 113:2.
34. More generally, under formal policy, police were not authorized to arrest where the MPD had not first provided two warnings or orders to disperse and the opportunity to comply. Id. at 109:1 – 9.
35. According to the District of Columbia, the only two offenses for which it claims probable cause to arrest in connection with the April 15, 2000 march are parading without a permit and failure to obey the lawful order of an officer. See Ex. 6, D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 190:20 – 191:3.
36. Chief Ramsey attests that municipal intent was to arrest everyone who was in any way “involved in the march.” See Ex. 17, Ramsey dep. at 164:13 – 15 (intended to arrest “[i]ndividuals that were involved in the march”), id. at 175:6 – 12 (intended to arrest participants in the march).
37. According to Herold, he did not record his provision of orders to leave the street or suffer imminent arrest in any log or document. See Ex. 5, Herold dep. at 183:4 – 183:12.
38. According to Herold, only *his* purported provision of orders to leave the street formed the basis for any failure to obey charge. He knows of no other orders that were discussed at the on-scene command staff meetings. Id. at 182:18 – 183:3;

39. Herold is even unable to reliably estimate the number of persons that he claims to have heard such an order from him and disobeyed it. According to Herold, his estimate is around 400 persons disobeyed him “plus or minus 200 on that estimate.” See Ex. 6, District of Columbia Rule 30(b)(6) Dep. (D.C. designee Herold) at 180:20 – 21; See gen’ly id. at 175:21 – 182:4.
40. Herold concedes that he is unable to attest that all persons in the march heard his alleged orders. Id. at 170:20 – 171:3 (“There were many, many people that were not in that block so whether they heard or didn’t hear really had no effect on what I was doing”).
41. Herold also attests to circumstances that would make it impossible to claim - - and he does not so claim- - that he was communicating with the march as a whole. Id. at 146:15 – 22 (march was not one cohesive group, was fragmented and strung out); Id. at 149:1 – 150:6 (same); Id. at 266:2 – 7 (march spread out at times over five blocks, when he encountered it was spread over three blocks); Id. at 266:15 – 22 (when Herold was allegedly directing people out of the street, the march itself was “essentially spread out everywhere from 19<sup>th</sup> and I through 21<sup>st</sup> - - between 21<sup>st</sup> and 22<sup>nd</sup> and Penn”).
42. According to Herold, at the time he purportedly issued such orders the march was engaged in “loud and boisterous” protest. See Ex. 5, Herold dep. at 174:12 – 13.
43. Herold claims to have issued the orders only from the rear of the march and knows of no attempts to issue such orders at the front of the march. Id. at 174:20 – 175:6.
44. Ramsey concedes he has no personal knowledge of the provision of such orders and has no idea as to upon what this purported belief is based. Ramsey admits that there is an absence of any record that the provision of such warnings was made. See Ex. 17, Ramsey dep. at 178:14 – 16; see also id. at 184:4-19.
45. Ramsey does not know or identify who may have purportedly provided him with information that any orders were given. Id. at 130:3-5. Nor does he recall whether he believed that amplified sound was used to communicate such an order, id. at 130:6-9, or the precise substance of the order, id. at 130:10-16, or where along the march route any individuals were alleged to have been on the roadway, id. at

131:3-9. Ramsey does not know on how many occasions he believed that persons had stepped upon the roadway, id. at 128:13-14. At the time of the arrests, he did not bother to ask how many people were involved in the alleged stepping upon the street. Id. at 128:18-21. Nor did he ask for how long of a duration were the unspecified individuals upon the roadway. Id. at 128:22 – 129:3. Ramsey did not ask whether purported movement in the street was due to an obstruction in the sidewalk, e.g., a construction site. Id. at 128:4-8.

46. Ramsey testified that he “made an assumption” that all 2000+ marchers and all members of the plaintiff class had heard a warning to leave the street. Id. at 181:3-6; Id. at 180:18-22 (“I assume that [communication of orders to leave the streets] was adequate since I had been told that people had, in fact, complied at one point.”).
47. According to policy, all significant events related to mass arrests are to be recorded in the Commander’s Mass Demonstration Event Log. See Ex. 20, MPD Manual at 36.
48. *The District of Columbia admits that not one single arrest record was received by the Records Division in connection with the April 15, 2000 mass arrest, see* Ex. 21, D.C. 30(b)(6) Dep. (D.C. designee Gantt) at 38:1 - 40:9.
49. According to the District of Columbia Rule 30(b)(6) records deponent, no field arrest forms are known to exist. Id. at 43:12 - 21.
50. The District of Columbia, through its counsel at the Office of the Attorney General (OAG), further represents that “we have not identified and our documents do not identify to us any arresting officers from the April, 2000 mass arrests. . . should that change, I will notify all counsel immediately but I don’t know how to change that at this time.” See Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) at 270-1 (attorney Thomas Koger).
51. The officers identified as “arresting officers” on the field arrest forms are merely those who placed flexcuffs on the arrestee. Id. at 55:9 - 16. As a general practice, the “arresting” officers did not observe their arrestee(s) engaged in allegedly offending conduct. Id. at 54:13 – 19.

52. Sergeant Keith DeVille flexcuffed one of the April 15 arrestees. When asked what conduct the arrestee had been engaged in prior to the time of arrest, DeVille conceded that he didn't know what he was doing. When pressed for the basis of this individual's arrest, DeVille testified that there was "probable cause to believe he was engaged in a protest." See Ex. 22, DeVille Dep. at 148:20 – 150:10.
53. The District acknowledges that it did not record *anywhere* the identity of an individual officer or witness who purportedly observed any particular arrestee engaged in alleged misconduct. Id. at 55:17-56:3
54. The District of Columbia, through its Rule 30(b)(6) spokesperson, was presented with each and all of the documents and printouts that contain lists of names or identity information of the class members. The District agreed it would be "futile and pointless" to go through each name for the purpose of disclosing whether there was any witness to the arrestee having engaged in unlawful conduct, as no such information is available for any member of the class. See Ex. 6, D.C. Rule 30(b)(6) Dep. (D.C. designee Herold) at 77:6 - 78:10.
55. MPD Special Operations Division (SOD) Commander Michael Radzilowski is falsely identified in police records as the arresting officer for *over two hundred (200) arrestees*. See gen'l'y Ex. 23, Radzilowski dep. at 124:6 - 132:15.
56. Former Commander Radzilowski testified under oath that *he was not even on the scene of the arrests* despite being listed as the arresting officer for over two hundred (200) arrestees. He testified that he did not arrest a single individual. The arrest processing system will not function unless an arresting officer is identified for an arrestee. Mr. Radzilowski recalled that an officer from Prisoner Control called him to say "they need a name for arrests" and Radzilowski told them to go ahead and enter his name. See Ex. 23, Radzilowski dep. at 124:6 - 125:11, 127:18 - 129:5. They called him because "I'm Mr. SOD. I was the head of SOD [Special Operations Division]." Id. at 129:4 - 5.

57. Charles Ramsey, as the Police Chief, had final policymaking authority with respect to the police generally, see 6A DCMR §800 (authorities of Chief of Police) and the conduct of mass arrests of protestors specifically, Ex. 17, Ramsey Dep. at 244:7 – 12 (Mayor delegates or “entrusts” to MPD the decision as to when to make mass arrests).
58. Chief Ramsey approved the April 15, 2000 mass arrest. The custodial arrests began only after Chief Ramsey and Executive Assistant Chief (EAC) Gainer had been briefed and had approved and/or affirmed that mass arrest should occur. See Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) at 183:15 – 184:10 (meeting with Acosta, Ramsey and Gainer occurred approximately twenty to thirty minutes before the first flexcuffs were applied). Chief Gainer admits that he and Ramsey were first briefed at the scene and that they acquiesced or affirmed or approved the execution of the mass arrests. See Ex. 15, Gainer Dep. at 170:10 – 14; See also Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) at 192:18 – 193:8 (Chief Ramsey concurred with decision to arrest); id. at 195:19 – 196:16 (Gainer conveyed “approval” for arrests, before flexcuffs began to be used). In the instant case, Chief Ramsey was the most senior officer at the scene of the arrests (see Ex. 17, Ramsey Dep. at 145:9 – 11), was “in overall command of the department” (see Ex. 28, Chain of Command (the IMF/WB event operations plan provides that Ramsey “will be in overall command of the department”)), was Field Commander for the IMF/WB event (see Ex. 17, Ramsey Dep. at 145:14-16 (Chief Ramsey testified that he is “always the field commander.”)), had personal operational control at the scene of the mass arrests (Chief Ramsey, as police chief, was the field commander. Id. at 145:1-4 (the “field commander is the chief of police, me.”); Ex. 20, MPD Manual for Mass Demonstrations and Responding to Civil Disturbances (January, 1996 rev’n) at 2 (“The Chief of Police, or an official designated by him, will be the Field Commander at scenes of mass demonstrations and civil disturbances.”). Section 800 of Title 6A of the D.C. Municipal Regulations states: “The Chief of Police shall, when necessary, immediately proceed to the scene of any riot, tumultuous assemblage, or other unusual occurrence and take command of the force and direct its efforts in the work at hand.” 6A D.C. Mun. Regs. 800.4.)), was briefed at the scene about the arrests to be made, in his words,

“because it is part of my responsibility to ask why the arrests were taking place” (see Ex. 17, Ramsey Dep. at 155:5 – 13; see also id. at 149:21 – 150:10, 153:1 – 6), was on the scene over an hour before the custodial arrests began (see Ex. 15, Gainer Dep. at 154:18 – 155:1, 164:9 – 166:3 (on scene one hour before custodial arrests began); Ex. 17, Ramsey Dep. at 132:1 – 7 (Gainer and Ramsey arrived together), had the authority to stop the arrests and chose not to do so because he “saw no reason to” (see Ex. 17, Ramsey dep. at 166:22 – 167:17; Ex. 6, D.C. 30(b)(6) Dep. (D.C. designee Herold) 199:14 – 21 (Ramsey was briefed on the basis for the arrests and had the authority to cause their cessation)), and either approved or affirmed the arrests (see Ex. 15, Gainer Dep. at 170:7 – 14 (“I don’t know if [Ramsey] gave a verbal approval or okay. The two of us were there and asked questions and got the buses there and didn’t protest our presence, and we acquiesced and affirmed it.”)).

59. To this day approves the arrests as being “justified.” See Ex. 17, Ramsey Dep. at 197:9 – 11. He has no apologies for the conduct of the MPD, which he characterizes as “magnificent” and restrained. See Ex. 17, Ramsey Dep. at 277:8 – 22.
60. The District of Columbia, in Rule 30(b)(6) deposition, concurs that once Chief Ramsey arrived on the scene, he became the official in charge of the mass arrest. See Ex. 4, D.C. Rule 30(b)(6) Dep. (DC designee Burke) at 114:17 – 22.
61. Ms. Elizabeth Butler was an activist organizer who had demonstration-related responsibilities in connection with protestors’ Convergence Center, a meeting and gathering space located at 1328 Florida Avenue. From the period of January, 2000 she had been actively involved in organizing for the Convergence Center. In the days leading up to April 15, 2000, Ms. Butler been coordinating trainings and art sessions and coordinating the use of the Convergence Center for persons who were planning to protest in connection with the April 16 and 17, 2000 IMF/WB protests. See Ex. 27, Butler Dep. at 8:16 – 11:14.
62. Ms. Butler was at the door of the Convergence Center when officers pushed their way in, without a warrant. Id. at 47:12 – 48:17.

63. Ms. Butler met with a police officer who introduced himself as the officer in charge. Id. at 48:7 – 51:2.
64. Ms. Butler believed that her and everyone else’s rights were being violated by the police action to raid and close down the Convergence Center. However, she recognized the importance of cooperating with the police in order to avoid a situation in which police would create a pretext for a mass arrest. Id. at 50:15 – 51:19.
65. There were multiple instances when rank and file officers turned to Ms. Butler and asked her, as they were demanding generally, to leave. The officer in charge told those officers “She can stay. She’s helping us get people out.” For this reason, she was never required to leave. Id. at 55:9 – 12.
66. There came a time when another MPD official, an African-American man displaying a gold badge and wearing a trench coat, appeared on the scene. He countermanded the earlier allowance that personal property could leave the premises, and ordered that it all be returned. Ms. Butler explained to him that the officers had been telling us that personal property can be removed, but the man insisted that nothing could leave. Id. at 55:13 – 56:1.
67. As the evacuation became completed with the aid of Ms. Butler, she was leaving the building along with a number of officers. The MPD official with the gold badge and trench coat approached. He pointed to Ms. Butler and the one other woman who was also aiding the evacuation and he said, “I am sick of these two, arrest them.” Id. at 71:20 – 72:13, 74:6 – 75:5.
68. Another officer complied. Ms. Butler repeatedly asked why she was being arrested. The officer who placed the handcuffs on her told her that she would have to ask him, referring to the man with the gold badge and trench coat. Id. at 74:9 – 74:12. That man refused to answer. Id.
69. Ms. Butler did not learn the charge for her arrest until her arraignment. Id. at 74:19 – 75:4.
70. Ms. Butler was never given a lawful order which she failed to obey. Id. at 74:22 – 75:1.
71. Ms. Butler was, in fact, cooperating with the police. Id. at 67:16 – 68:7.

Respectfully submitted,

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/s/  
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