

**INSTITUTE FOR CONSTITUTIONAL  
ADVOCACY AND PROTECTION**

*Plaintiff,*

v.

**BALTIMORE CITY POLICE  
DEPARTMENT**

*Defendant.*

**IN THE  
CIRCUIT COURT  
FOR  
BALTIMORE CITY**

**Civil Action No.: 24-C-21-000162**

\* \* \* \* \*

**JOINT DISMISSAL UPON STIPULATED TERMS**

Pursuant to Maryland Rule 2-506 (b), Plaintiff, the Institute for Constitutional Advocacy and Protection ("ICAP"), and Defendant, the Baltimore Police Department ("BPD"), through counsel, file this Joint Dismissal Upon Stipulated Terms in the above-captioned matter. The action may be reopened at any time upon request of any party to the settlement to enforce the stipulated terms through the entry of judgment or other appropriate relief. In support, the parties have attached their Settlement Agreement.

WHEREFORE, Plaintiff and Defendant jointly and respectfully request that this Honorable Court dismiss the lawsuit.

Respectfully submitted,



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*Attorney for Defendant*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 13th day of May 2022 a copy was directed by electronic mail

to:

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\*Admitted pro hac vice

*Attorneys for Plaintiff*

Respectfully submitted,



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*Attorney for Defendant*

## **SETTLEMENT AGREEMENT AND RELEASE**

THIS SETTLEMENT AGREEMENT AND RELEASE (the "Agreement") is made and entered into this 13<sup>th</sup> day of May, 2022, by the Institute for Constitutional Advocacy and Protection ("ICAP") (the "Releasing Party"), and the Baltimore Police Department ("BPD"), as named in the Releasing Party's Complaint (the "Released Party"). The Released Party together with the Releasing Party are referred to herein as the "Settling Parties."

### **RECITALS**

WHEREAS, the Releasing Party filed a Complaint in the Circuit Court for Baltimore City against the Released Party, substantially or similarly styled *Institute for Constitutional Advocacy and Protection v. Baltimore Police Department*, Case No. 24-C-21-000162 (the "Litigation"), arising out of an alleged violation of the Maryland Public Information Act ("MPIA"), Annotated Code of Maryland, General Provisions Article ("GP") § 4-101 *et seq.*) in response to ICAP's September 2020 request (herein, the "Occurrence"); and

WHEREAS, the Releasing Party demands injunctive relief and damages; and

WHEREAS, the Released Party denies and disputes the allegations asserted in the Litigation; and

WHEREAS, the Settling Parties now desire to fully compromise and settle finally and forever the Litigation and any other existing or future claims or disputes asserted or which could have been asserted of whatever nature, including without limitation, any and all claims, causes of action, costs and demands of whatever name or nature, in any manner by the Releasing Party arising, growing out of, or on account of the Occurrence or Litigation against the Released Party or other persons, known or unknown.

## **AGREEMENT**

NOW THEREFORE, in consideration of the mutual promises and agreements set forth herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Settling Parties hereby agree as follows:

1.     **Recitals:** The foregoing recitals are incorporated into and made part of this Agreement.

2.     **Production:** On or before August 15, 2022, BPD will produce 125 MPIA files identified by ICAP at BPD's own expense, with no charge to ICAP. *See* Appendix A, 125 MPIA Tracking Numbers. BPD anticipates that the production will consist of: MPIA requests, invoices, canceled checks, and/or email correspondences responsive to BPD's grant or denial of a fee waiver request. BPD will produce all responsive documents that are not privileged. ICAP understands that redactions may be required on responsive documents, but BPD will provide citations and explanations for its redactions. Additionally, on or before February 28, 2023, BPD will produce to ICAP a six-month report for the time period of August 1, 2022, through January 31, 2023, regarding all MPIA requests received during that time period with the following columns of information:

- Tracking Number,
- Date Received,
- Category of Requester(s),
- Name,
- Represented By,
- CC# or Request,
- Assigned To,



- Status,
- Action Taken,
- Paid,
- Date Closed,
- Date Released,
- Fee waiver requested (yes/no);
- Fee waiver granted (yes/no); and
- Dollar amount of costs estimated or assessed.

3. **SharePoint Database:** On or about August 1, 2022, BPD will start tracking fee waiver requests in its Sharepoint database. BPD's Sharepoint database will include columns for: (a) Fee waiver requested (yes/no); (b) Fee waiver granted (yes/no); and (c) Dollar amount of costs estimated or assessed. For each MPIA request received by BPD on or after August 1, 2022, BPD personnel will document accurate information into aforementioned columns (a) through (c) to the extent such information is available. BPD's Document Compliance Unit personnel will, prior to August 1, 2022, be trained on Sharepoint and on documentation of data in aforementioned columns (a) through (c).

4. **Dismissal:** Within one (1) business day after execution of this Agreement, the Releasing Party shall file with the Court a Joint Stipulation of Dismissal with Prejudice as to the Released Party.

5. **Warranty of Capacity to Enter Into Release:** The Releasing Party represents and warrants that no other person or entity has any interest in the claims, demands, allegations or causes of action referred to in this Agreement except as otherwise set forth herein and that it has the sole right and exclusive authority to execute this Agreement, to release all claims on its behalf,

and that it has not sold, assigned, transferred, conveyed or otherwise disposed of any claim, demand, obligation or causes of action referred to in this Agreement. If any person or entity should assert a claim on behalf of the Releasing Party for damages against the Released Party claiming that the Releasing Party did not have the right or authority to enter into this Agreement, the Releasing Party agrees to indemnify, defend and hold harmless the Released Party from any and all claims or contentions, damages, costs, liability and attorneys' fees as a consequence or result of such claim or lawsuit.

6. **General Release and Covenant Not to Sue:** In consideration of the Agreement's terms and other good and valuable consideration, the Releasing Party, its heirs, assigns, agents, representatives, attorneys, and successors in interest hereby unconditionally releases and forever discharges and covenants not to sue the Released Party, its officials, agents, employees, employers, agencies, departments, directors, officers, members, representatives, assigns, attorneys, successors in interest, and all other persons, firms, entities, governmental entities, and corporations from any and all Claims which the Releasing Party may now or hereafter have or claim to have, arising out of, or in any way related to, the Occurrence or Litigation the allegations or claims asserted, or that could have been asserted, in the Litigation, provided, however, the obligations of the Settling Parties under this Agreement shall continue in full force and effect. "Claims" include, but are not limited to, any and all losses, costs, expenses, debts, actions (constitutional or statutory, in law or in equity), causes of action, suits, damages, claims, demands and all other claims, liabilities and obligations of any nature whatsoever, including but not limited to any and all claims for discrimination under Title VII of the Civil Rights Act of 1964, the Civil Rights Act of 1991, the Age Discrimination in Employment Act, the Equal Pay Act, the Older Worker Benefits Protection Act, the Family and Medical Leave Act, the Consolidated Omnibus Budget Reconciliation Act,

the Americans with Disabilities Act, the Employee Retirement Income Security Act, and any comparative state law, whether presently known or unknown, including attorneys' and consultant's fees.

7. **Costs and Expenses:** Each party will be responsible for its own costs and expenses incurred in connection with the prosecution, defense, or settlement of the claims asserted by the Releasing Party against the Released Party.

8. **No Admission of Liability:** It is understood and agreed by the Settling Parties that this Agreement and the releases contained herein shall not be construed as an admission of liability on the part of the Released Party, any such liability being expressly denied, and that rather, the purpose of this Agreement is to fully and finally resolve all differences amongst the Settling Parties and to allow the Settling Parties to avoid the time, expense, and uncertainties of protracted litigation. The Settling Parties agree to comply with Maryland Rule 5-408's limitations on settlement, including that this Agreement "is not admissible to prove the validity, invalidity, or amount of a civil claim in dispute." Further, the Settling Parties agree that neither the fact nor the terms of this Agreement are relevant to any other dispute, request, or proceeding, and that no Settling Party will offer, rely upon, or in any way use this Agreement or its terms in any other dispute or proceeding. The foregoing prohibition does not apply to an action to enforce this Agreement.

9. **Entire Agreement of the Parties:** It is understood and agreed by the Parties that this Agreement constitutes the entire Agreement among the Settling Parties with respect to the subject matter hereof and supersedes all other prior and contemporaneous written or oral agreements and discussions. This Agreement may only be amended by a writing signed by all parties hereto.



10. **Drafting of the Agreement:** The Settling Parties acknowledge that this Agreement represents the product of negotiations by the Settling Parties and shall not be deemed to have been drafted exclusively by any one party. In the event of a dispute regarding the meaning of any language contained in this Agreement, the Settling Parties agree that the same shall be accorded a reasonable construction and shall not be construed more strongly against one party than the other.

11. **Severability:** In the event that any covenant, condition, or other provision contained in this Agreement is held to be invalid, void, or illegal by any court of competent jurisdiction, the same shall be deemed severable from the remainder of this Agreement and shall in no way affect, impair or invalidate any other covenant, condition or other provision contained herein. If such condition, covenant or other provision shall be deemed invalid due to its scope or breadth, such covenant, condition or other provision shall be deemed valid to the extent of the scope or breadth permitted by law.

12. **Waiver of Jury Trial:** To the extent an action is filed in any court in connection with any covenant, term or condition of this agreement, the Settling Parties hereby knowingly, voluntarily, and intelligently waive any and all rights to a trial by jury.

13. **Knowing and Voluntary Act:** Each of the Settling Parties represents that each has read this Agreement and acknowledges that each has been represented or had the opportunity to be represented by legal counsel of their own choice throughout all of the negotiations which preceded the execution of this Agreement and that each party has voluntarily and knowingly executed this Agreement of their own free will and/or with the consent and/or on the advice of such legal counsel. Each of the Settling Parties further acknowledges that each and/or such party's counsel have had adequate opportunity to make whatever investigation or inquiry they may deem

necessary or desirable in connection with the subject matter of this Agreement prior to the execution hereof and the delivery and acceptance of the considerations specified herein.

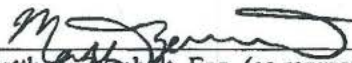
14. **Survival of Terms:** The Settling Parties agree that this Agreement shall upon approval inure to the benefit of the Settling Parties and their respective agents, assigns, partners, heirs, executors, administrators, and personal or legal representatives. The Settling Parties understand and agree that the terms, covenants, and conditions set forth in this Agreement shall survive the closing of the Agreement.


15. **Governing Law:** This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Maryland, without giving effect to its conflicts of law provisions, and any legal actions presenting disputes arising out of or under this Agreement shall be subject to the exclusive jurisdiction of the Circuit Court for Baltimore City, Maryland.

16. **Retention of Jurisdiction:** The Settling Parties acknowledge that the terms of this Agreement shall be binding and enforceable under Maryland Rule 2-506(b), which provides that “[i]f an action is settled upon written stipulated terms and dismissed, the action may be reopened at any time upon request of any party to the settlement to enforce the stipulated terms through the entry of judgment or other appropriate relief.”

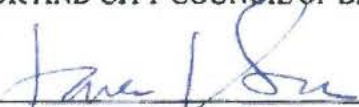
17. **Counterparts:** This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall be deemed to be one and the same instrument. An emailed, facsimile or copy signature will be binding and legal in all respects as if it were an original signature to this Agreement.

IN WITNESS WHEREOF, the Settling Parties have executed this Agreement by the duly authorized representatives as of the date first written above:

  
Matthew Zernbelt, Esq. (as representative of  
Institute for Constitutional Advocacy and Protection)

  
Kay N. Harding, Esq. (as representative of  
Baltimore Police Department)

MAYOR AND CITY COUNCIL OF BALTIMORE

By:   
James L. Shea, Sr. City Solicitor

## **Appendix A**



Tracking Number	Date Received
19-0931	7/12/2019
19-0900	7/5/2019
19-1015	7/31/2019
20-1242	7/17/2020
20-1180	7/3/2020
20-0980	6/3/2020
20-1298	7/21/2020
20-1316	7/28/2020
19-0853	6/26/2019
19-0833	6/21/2019
20-1207	7/14/2020
18-0879	7/26/2018
20-1190	7/8/2020
20-1159	7/2/2020
20-0987	6/9/2020
19-0711	6/3/2019
19-0834	6/21/2019
19-0874	6/28/2019
20-1160	7/6/2020
18-0714	6/18/2018
20-1027	6/16/2020
18-0877	7/30/2018
18-0700	6/12/2018
18-0717	6/5/2018
18-0730	6/5/2018
18-0797	7/5/2018
18-0807	7/10/2018
18-0815	7/11/2018
18-0817	7/11/2018
18-0839	7/18/2018
18-0841	7/18/2018
18-0864	7/25/2018
18-0867	7/26/2018
18-0869	7/30/2018
18-0875	7/27/2018
18-0878	7/30/2018
18-0881	7/30/2018
18-0890	7/31/2018
19-0771	6/12/2019
19-0776	6/12/2019
19-0905	7/5/2019
19-0976	7/22/2019
19-1009	7/29/2019
20-1046	6/11/2020
20-1081	6/12/2020
20-1121	6/30/2020

20-1139	7/1/2020
20-1156	7/5/2020
20-1183	7/8/2020
20-1188	7/8/2020
20-1197	7/9/2020
20-1238	7/15/2020
20-1243	7/17/2020
20-1276	7/23/2020
20-1358	7/25/2020
20-1359	7/30/2020
20-1361	7/30/2020
20-1362	7/20/2020
20-1363	6/26/2020
20-1552	6/4/2020
18-0715	6/15/2018
18-0716	6/12/2018
18-0719	6/18/2018
18-0720	6/18/2018
18-0721	6/18/2018
18-0722	6/18/2018
18-0744	6/22/2018
18-0782	7/2/2018
18-0783	7/3/2018
18-0800	7/6/2018
18-0849	7/19/2018
18-0860	7/23/2018
18-0868	7/30/2018
19-0811	6/20/2019
19-0859	6/26/2019
19-1013	7/30/2019
19-1045	7/10/2019
20-1012	6/15/2020
20-1043	6/11/2020
20-1047	6/9/2020
20-1084	6/15/2020
20-1110	6/24/2020
20-1113	6/26/2020
20-1122	7/1/2020
20-1126	7/2/2020
20-1136	6/1/2020
20-1137	6/4/2020
20-1140	6/15/2020
20-1141	6/9/2020
20-1232	7/13/2020
20-1240	7/16/2020
20-1244	7/20/2020
20-1260	6/25/2020



20-1327	7/20/2020
20-1328	7/29/2020
18-0701	6/12/2018
19-0985	7/26/2019
18-0802	7/6/2018
18-0883	7/27/2018
18-0826	7/16/2018
18-0827	7/16/2018
19-1031	7/29/2019
19-0767	6/9/2019
18-0918	7/11/2018
18-0728	6/19/2018
19-1023	7/30/2019
20-0995	6/9/2020
20-0996	6/9/2020
20-1044	6/17/2020
20-1111	6/26/2020
20-1112	6/26/2020
20-1153	7/2/2020
18-0774	6/26/2018
20-1063	6/19/2020
20-1083	6/12/2020
20-1142	6/24/2020
20-1237	7/13/2020
20-1299	7/21/2020
19-0888	6/19/2019
19 0768	6/3/2019
18-0865	7/26/2018
18-0761	6/27/2018
20-1114	6/26/2020
19-0909	7/9/2019
18-0694	6/12/2018
*18-0859	
*19-0830	
*20-1042	
*20-0986	

\* alternative Tracking Numbers, if needed.