

2. Being labeled as a gang member can have catastrophic consequences for a young person's life, including being targeted for surveillance and police stops, facing harsher outcomes

in the criminal justice system, and—for noncitizen youth—being detained and deported. Yet, under BPD rules, police can place children in its “Gang Assessment Database” and label them as “active” gang members based on nothing more than the clothing they are seen in and the classmates they are seen with.

3. Despite these harsh realities, little is known about the BPD’s use of its gang database. Plaintiffs do not know, for example, how many people are in Boston’s gang database, what proportion of those people are Black and Latinx, whether the BPD has ever assessed the gang database’s accuracy or effectiveness at fighting crime, whether procedures exist for removing false allegations from the database, or how Immigration and Customs Enforcement (“ICE”) officials learn of gang allegations.

4. Plaintiffs thus sent defendants BPD and the Boston Regional Intelligence Center (“BRIC”) a public records request on May 21, 2018, nearly six months ago. Defendants have delayed their response to that request, failed to conduct an adequate search, and erroneously relied on exemptions to the Massachusetts Public Records Law (“MPRL”). To this day, plaintiffs have received only a handful of records. Plaintiffs therefore bring this suit under G.L. c. 66, § 10A(c), seeking declaratory and injunctive relief requiring the defendants to comply with the MPRL by producing all requested documents without further delay.

Jurisdiction and Venue

5. Jurisdiction and venue are proper in this Court pursuant to G.L. c. 66, § 10A(c).

Parties

6. Plaintiff American Civil Liberties Union of Massachusetts, Inc. (“ACLUM”) is a Massachusetts nonprofit corporation with a principal place of business in Boston, Massachusetts.

7. Plaintiff Children’s Law Center of Massachusetts is a Massachusetts nonprofit corporation with a principal place of business in Lynn, Massachusetts.

8. Plaintiff Greater Boston Legal Services is a Massachusetts nonprofit corporation with a principal place of business in Boston, Massachusetts.

9. Plaintiff Justice Center of Southeast Massachusetts is a subsidiary of South Coastal Counties Legal Services, a Massachusetts nonprofit corporation. Its principal place of business in Brockton, Massachusetts.

10. Plaintiff Muslim Justice League is a Massachusetts nonprofit corporation with a principal place of business in Boston, Massachusetts.

11. Plaintiff National Lawyers Guild, Massachusetts Chapter is a Massachusetts nonprofit corporation with a principal place of business in Boston, Massachusetts.

12. Plaintiff Political Asylum/Immigration Representation Project is a Massachusetts nonprofit corporation with a principal place of business in Boston, Massachusetts.

13. Defendant Boston Police Department is an agency of the City of Boston and a custodian of the records plaintiffs seek. Its principal place of business is in Boston.

14. Defendant William G. Gross is the Commissioner of the Boston Police Department and a custodian of the records plaintiffs seek. He is being sued in his official capacity. His usual place of employment is in Boston.

15. Defendant Boston Regional Intelligence Agency (“BRIC”) is a “fusion center” that is run by the BPD and serves to facilitate information-sharing between local, state, and

federal law enforcement entities in the Boston area. It is a custodian of the records plaintiffs seek. Its principal place of business is in Boston.

16. Defendant City of Boston is a custodian of the records plaintiffs seek.

Background

17. The recent use of information from Boston's gang database by ICE officials in immigration court has shed light into a system that is otherwise shrouded in secrecy. Here is what plaintiffs have learned:

The BPD's gang database

18. The BPD has databases that contain information concerning the alleged affiliation of individuals with gangs.

19. These databases include the "Gang Assessment Database," which is maintained by the BRIC.

20. The BPD uses a point system to determine whether to include someone in the Gang Assessment Database. The point system is based on alleged markers of gang involvement.

21. Under the point system, a person is designated as a "Gang Associate" if he is assessed six or more points, and a "Gang Member" if he is assessed ten or more points. *See* Exhibit A, Boston Police Department Rules and Procedures Rule 335.

22. The point system makes it possible to designate someone a Gang Associate or Gang Member without any allegation that he engaged in violence or criminal activity.

23. An individual may be assessed eight points for being the *victim* of gang-related violence. *Id.* at 3.

24. An individual may be assessed two points for each instance in which he is seen with an alleged gang member or associate, even in a photograph, and even if that alleged gang member or associate is a classmate, neighbor, or family member. *Id.*

25. An individual may be assessed four points for each instance in which a police report describes him to have been “[w]alking, eating, recreating, communicating, or otherwise associating with” a gang member; for making a hand gesture believed to be a gang sign; and for wearing clothing that police deem to be gang-related. *Id.* at 6.

26. Other factors the BPD considers are circular. For example, an individual may be assessed eight points if another law enforcement agency determines he is a gang member, without regard to the evidence or criteria used, or nine points for being in possession of court or “investigative documents” that label him a gang member. *Id.* at 3.

Inaccuracies and racial disparities in the gang database

27. On information and belief, the Gang Assessment Database mislabels a significant number of people as gang members.

28. On information and belief, many individuals included in the Gang Assessment Database have never been convicted of or arrested for any crime.

29. On information and belief, most people in the Gang Assessment Database are Black or Latinx.

30. On information and belief, racial disparities in the Gang Assessment Database result in part from the disparate application of the criteria for determining gang membership. Because the criteria for gang membership are vague enough to be used in nearly any situation, they are readily applied to things that are popular among certain Black or Latinx youth.

31. As an illustration: using the rule that assigns points to gang-related “paraphernalia or identifiers,” police may label widely-available clothing as gang apparel when it is worn by youth from particular communities.

32. For example, the BPD has deemed Chicago Bulls caps to be gang apparel.

33. On information and belief, Central American youth in Boston have also been assigned points for wearing or having pictures of Air Jordan or other Nike brand sneakers.

34. On information and belief, racial disparities in the Gang Assessment Database also result from the BPD’s disproportionate surveillance of Black and Latinx youth, and its reliance on such surveillance to assign points that qualify individuals as gang members.

35. The BPD frequently surveils youth as they leave school or gather in the park.

36. The BPD and BRIC also visit social media sites like Facebook and assign points to individuals based on their pictures and posts.

37. Through school officers, the BPD and BRIC also gather information about the social lives of young people *inside their schools*.

38. Under the rule that assigns five points based on “information developed during investigation and/or surveillance,” some young people receive half of the points necessary to be deemed a gang member simply because school police have surveilled them talking to or walking with classmates who are alleged to have gang ties.

39. On information and belief, most youth who are subject to surveillance are Black and Latinx.

40. For example, one type of record that may be used to substantiate allegations of gang membership is a Field Interrogation/Observation/Encounter (“FIOE”) report documenting that police saw a particular individual with an alleged gang member. FIOE reports are commonly

used to document police observations of and interactions with particular individuals, including stops and frisks.

41. A years-long study of FIOE reports conducted at the request of the BPD and plaintiff ACLUM revealed racially disparate treatment—*i.e.*, actions that could not be explained by crime or other non-race factors—by the BPD against people and communities of color. For example, after controlling for crime and alleged gang affiliation, the study found that the more Black and Latinx individuals lived in a neighborhood, the more FIOE activity the BPD conducted.¹

42. The BPD has never publicly revealed the number of people in the Gang Assessment Database, or their breakdown by race, age, or other criteria.

43. Nor, on information and belief, has the Gang Assessment Database been reviewed by an independent third party to verify its reliability or effectiveness.

44. Studies of similar databases have revealed significant problems. For example, a 2016 state audit of California’s “CalGang” database revealed that 13% of listings lacked the required evidence to support the listing. In addition, CalGang listed dozens of children as alleged gang members who were younger than one year of age at the time of entry, including 28 who were entered for “admitting to being gang members.”² This year, a review of Chicago’s gang database by ProPublica revealed that it was riddled with inaccuracies, and that 95% of the individuals listed as gang members were Black or Latinx.³

¹ See J. Fagan et al., FINAL REPORT: AN ANALYSIS OF RACE AND ETHNICITY PATTERNS IN BOSTON POLICE DEPARTMENT FIELD INTERROGATION, OBSERVATION, FRISK, AND/OR SEARCH REPORTS (Jun. 15, 2015) *available at* <http://raceandpolicing.issuelab.org/resources/25203/25203.pdf> (“POLICING RACE AND ETHNICITY IN BOSTON REPORT”).

² Elaine M. Howle, THE CALGANG CRIMINAL INTELLIGENCE SYSTEM, California State Auditor Report 2015-130 (Aug. 11, 2016), *available at* <https://www.auditor.ca.gov/pdfs/reports/2015-130.pdf>.

³ See M. Dumke, “Chicago’s Gang Database is Full of Errors – And Records We Have Prove It,” PROPUBLICA ILLINOIS (Apr. 19, 2018), *available at* <https://www.propublica.org/article/politic-il-insider-chicago-gang-database>.

Consequences of inclusion in the gang database

45. Inclusion in the Gang Assessment Database can have dire consequences, including increased targeting for police surveillance and stops, and greater exposure to arrest for low-level crimes. For noncitizen youth, these consequences include detention and deportation.

46. ICE has access to, or receives information from, the Gang Assessment Database.

47. On information and belief, inclusion in the Gang Assessment Database creates a significant likelihood that a noncitizen youth in Boston will be detained by ICE after he turns 18. Once detained, a young person accused of gang membership is likely to be denied bond.

48. Indeed, one ICE official has been quoted as saying that “[t]he *purpose* of classifying [an individual] as a gang member or a gang associate is because once he goes in front of an immigration judge, we don’t want him to get bail” (emphasis added).⁴

49. Once denied bond and accused of being a gang member, a noncitizen youth’s chances of prevailing in his immigration case plummet.

50. The BPD does not notify individuals before or after adding them to the Gang Assessment Database. Nor does it notify individuals that they have been assessed points toward inclusion in the Gang Assessment Database.

51. On information and belief, despite the dramatic consequences for civil liberties and personal freedom of being mislabeled as a gang member, the BPD does not provide any procedure through which listed individuals can contest their status, request that old and irrelevant information be purged, or challenge the assessment of points in the Gang Assessment Database.

⁴ “Inside Ice’s Controversial Crackdown on MS-13,” CBS NEWS (Nov. 16, 2017), *available at* <https://www.cbsnews.com/news/ms-13-gang-ice-crackdown-thomas-homan/>.

52. Being labeled as a gang member has had devastating consequences for youth in Boston, including:⁵

- Martin is a Salvadoran teenager who fled gang violence and settled with his mother, sister and aunt in East Boston. He wound up in the BRIC's gang database because he was a victim of an assault at school, and because he was seen leaving school and hanging out with other youth who are alleged to be gang members. He was detained by ICE at the age of 18, and remains detained. BPD has refused his attorney's request for the FIOE records that caused Martin to be in the gang database.
- Lucas is a Central American youth who had never been arrested or charged with any adult or juvenile offense. He was detained by ICE based entirely on FIOEs by BPD and school police, who saw him with alleged gang members. Although Lucas has a valid petition for status pending, he remains detained and is likely to be denied the opportunity to pursue that protection.
- Victor came to the United States from Central America seeking protection from violence and parental neglect in 2012. In 2018, when he was about to be awarded his green card, U.S. Citizenship and Immigration Services ("USCIS") obtained BRIC records reflecting that—five years earlier—a Boston School Police officer had alleged that Victor was a gang member. The government has threatened to revoke its previous approval of his status and deport him based on that allegation.

Plaintiffs' Public Records Request

53. The devastating impact of gang allegations has raised numerous questions about how individuals are targeted for inclusion in gang databases and how information from the database is used. For example, plaintiffs do not know the number of people in the gang database, the gang database's effectiveness at fighting crime, or how ICE accesses gang information that is generated by BPD or school officers.

54. On May 21, 2018, plaintiffs sent a written public records request under G.L. c. 66, § 10 ("Records Request") to the BPD and BRIC for documents relating to the Gang Assessment Database and any other databases in which gang allegation information is kept.

⁵ All names in this paragraph are pseudonyms.

55. A copy of the Records Request is attached as Exhibit B. For ease of reference, the seven categories of records plaintiffs requested, include, respectively:

1. Policies relating to the entry, storage, and dissemination of information in the databases;
2. Records reflecting database characteristics and use of the databases, including the number of people in the databases, their demographic breakdown, the agencies and individuals who use the databases, and the effectiveness of the databases for fighting crime;
3. Audit and compliance records;
4. Each entry in the databases, not including names and other personal information;
5. Records required to be kept under 28 C.F.R. § 23.20(g) of every instance since January 1, 2015 in which information from the databases has been disseminated;
6. Policies regarding how alleged gang members are identified and monitored; and
7. Guidance provided to school police about the gang database.

56. An attorney for the BPD responded by email on June 7, 2018 and indicated that she hoped to provide materials the following week.

57. Plaintiffs did not receive documents the following week. On June 28, 2018, a different attorney representing the BPD confirmed by telephone that she was working on a response, and that the BPD's response would be for both the BPD and the BRIC.

58. With a cover letter dated July 3, 2018, the BPD produced five documents, deferred producing some documents, and claimed exemptions as to other documents. This letter is attached as Exhibit C.

59. The five documents BPD produced purported to respond to item 1 of plaintiffs' request, which seeks written policies governing the operation of the gang database. The documents totaled 59 pages, of which 52 are available on the BPD's website, including BRIC's 45-page privacy policy. Two of the documents appear to be missing pages.

60. In response to items 2, 3, and 5 of the request—seeking, respectively, database characteristics and use, audit and compliance records, and records relating to the dissemination of information from the database(s)—the BPD stated that it was “still in the process of reviewing these requests in order to determine how to search for and segregate responsive material,” and that it would “supplement its response to these items.” It has not done so.

61. In response to items 4, 6, and 7 of plaintiffs' request—seeking, respectively, the database entries, policies with regard to the identification of gang members, and guidance given to school police—the BPD contended that the records were exempt from disclosure under G.L. c. 4, § 7, Twenty-sixth (c), (f), and (n).

62. Plaintiffs responded in a letter on August 8, 2018, asking the BPD to complete the search for documents responsive to item 1 of plaintiffs' request (relating to policies governing the operation of the gang database), and provide a response to the other portions of plaintiffs' response. With regard to items 4, 6 and 7, the letter explained in detail why the exemptions BPD claimed are inapplicable to the documents sought. A copy of this letter is attached as Exhibit D.

63. On August 10, 2018, the Records Access Officer for the City of Boston stated by email that he had received plaintiffs' August 8 letter, and that he would "review [it] with the Boston Police Department and will provide a response once that review is complete."

64. Plaintiffs wrote to the Records Access Officer for the City of Boston on August 30, 2018, September 20, 2018, and October 16, 2018 to inquire about the status of the records request.

65. On October 17, 2018, the Records Access Officer responded and indicated that he and the Office of the Legal Advisor would begin to review the original request and the subsequent correspondence, and would provide an update "as soon as possible."

66. Plaintiffs requested a complete response by November 1, 2018.

67. To date, defendants have not responded further or otherwise supplemented their incomplete July 3 production.

Claims for Relief

Count I: Violation of G.L. c. 66, § 10

68. Plaintiffs incorporate by reference and reallege all of the allegations in the preceding paragraphs.

69. The MPRL strongly favors disclosure by creating a presumption that all government records are public records.

70. Under the MPRL, defendants were required to respond to plaintiffs' request within ten business days, to conduct an adequate search for responsive documents, and to demonstrate the application of any exemptions. G.L. c. 66, § 10(b).

71. Defendants have custody of public records requested by plaintiffs.

72. Defendants failed to provide a timely response to plaintiffs' request. Indeed, after nearly six months, they have provided only five documents in response to item 1 of plaintiffs' request—seeking policies governing the operation of gang databases—and no documents in response to the other six items in plaintiffs' request.

73. On information and belief, defendants have failed to conduct an adequate search with regard to each part of plaintiffs' seven-part request.

74. Defendants have also erroneously relied on Public Records Law exemptions (c), (f), and (n) in withholding records responsive to parts 4, 6 and 7 of plaintiffs' request—seeking, respectively, database entries, policies governing the identification of gang members, and guidance given to school police.

75. Exemption (c) exempts from disclosure “materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy.” G.L. c. 4, § 7, Twenty-sixth (c).

76. Exemption (c) does not apply because plaintiffs requested that names and other personal information be omitted from responsive documents. As a result, the disclosure of the requested records would not constitute an unwarranted invasion of privacy.

77. Exemption (n) exempts from disclosure “blueprints, plans, policies, procedures and schematic drawings . . . or any other records relating to the security or safety of persons or buildings . . . the disclosure of which, in the reasonable judgment of the custodian . . . is likely to jeopardize public safety or cyber security.” G.L. c. 4, § 7, Twenty-sixth (n).

78. Exemption (n) does not apply because the records requested are not blueprints or other records relating to safety or security in any buildings, as enumerated in the statute.

79. Exemption (f) exempts from disclosure “investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.” G.L. c. 4, § 7, Twenty-sixth (f).

80. Exemption (f) does not apply. The BPD has not met its burden of showing how the disclosure of the requested records would “so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.” Although a primary purpose of the exemption is to avoid the premature disclosure of law enforcement’s case before trial, *Bougas v. Chief of Police of Lexington*, 371 Mass. 59, 62 (1976), the BPD cannot point to any specific ongoing investigation that may be compromised by disclosure. Exemption (f) does not provide a blanket exemption for investigatory records or protect general information-gathering unrelated to a specific crime. The BPD has failed to demonstrate that Exemption (f) applies to any requested document.

81. Defendants’ actions violate G.L. c. 66, § 10.

Count II: Declaratory Judgment

82. Plaintiffs incorporate by reference and reallege all of the allegations in the preceding paragraphs.

83. There is an actual controversy between plaintiffs and defendants regarding the production of requested records.

84. Pursuant to G. L. c. 231A and the MPRL, plaintiffs are entitled to a declaration that the records they request are public records within the meaning of G. L. c. 66, § 10, that their release is required by law, and that defendants have no right to withhold such records.

Prayer for Relief

WHEREFORE, the plaintiffs request that this Court:

1. Issue a declaratory judgment that the records the plaintiffs have requested are public records within the meaning of G.L. c. 66, § 10, and that the BPD has no right to withhold such records;
2. Enter a permanent injunction requiring the BPD to disclose all of the records the plaintiffs have requested;
3. Award the plaintiffs their costs and attorneys' fees in bringing this action; and
4. Grant such other relief as the Court deems just and proper.

By their attorneys,



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EXHIBIT A



Rule 335 - GANG ASSESSMENT DATABASE

GENERAL CONSIDERATIONS:

In 1993, the Boston Police Department created a coordinated, multi-agency enforcement unit to address the youth violence problem affecting the City of Boston. The Youth Violence Strike Force, as it was named, has since evolved to incorporate prevention, intervention, and enforcement strategies. The following Rule delineates the responsibilities of the Youth Violence Strike Force as well as the process for gang member verification and entry into the Gang Assessment Database.

YOUTH VIOLENCE STRIKE FORCE:

Established in 1993 in response to the increased use of violence amongst youth in the City of Boston.

The mission of the Boston Police Department's Youth Violence Strike Force (YVSF) is to proactively reduce gun violence, particularly concentrating on individuals affiliated with gangs or violent criminal behavior. YVSF utilizes traditional policing strategies, incorporating prevention, intervention and enforcement efforts, as well as intelligence-led policing strategies to inform decision-making at every level. Patrol officers and detectives collect information and focus on sources of firearm and gang violence through the identification of individuals, groups, and locations. YVSF works collaboratively with community partners and other stakeholders to garner information on illegal firearms and related violence. Officers aim to prevent ongoing conflicts among street gangs through direct interaction with individuals and groups. Officers not only respond to but anticipate retaliatory violence between groups, and make every effort to deter further violence. Through community-based partnerships, suitable individuals with whom the YVSF makes contact are referred to social services and offered a variety of opportunities.

DEFINITIONS:

Gang

A gang is an ongoing organization, association, or group of three (3) or more persons, whether formal or informal, which meets both of the following criteria:

1. Has a common name or common identifying signs or colors or symbols or frequent a specific area or location and may claim it as their territory and
2. Has members or associates who, individually or collectively, engage in or have engaged in criminal activity which may include incidents of targeting rival gang members and/or being targeted by other gangs.

Gang Associate—Any person, whether juvenile or adult, that has been verified using the 10 Point Verification System defined by this Rule and has obtained at least six (6) points.

Gang Member—Any person, whether juvenile or adult, that has been verified using the 10 Point Verification System defined by this Rule and has obtained ten (10) points.

Gang Assessment Database—Database maintained by the BRIC that includes Gang Members and Gang Associates that have been verified using the 10 Point Verification System.

Active Status: An individual who has met the point criteria to be considered at least an associate and has had contact with another gang member / associate or has participated in some form of gang activity within the past 5 years to include instances where the individual may have been incarcerated.

Inactive Status: An individual who has met the point criteria to be considered at least an associate and has NOT had documented contact with another gang member / associate, law enforcement agency within the past 5 years.

Primary Affiliation: The group to which an individual is associated with. In cases where an individual associates with more than 1 group, the primary affiliation should be considered the group in which Law Enforcement can most clearly articulate the individual having the strongest ties.

Secondary Affiliation: A secondary group that an individual could be verified as being at least an associate (6 points). This is in addition to their Primary Affiliation.

Profile Page / Face Sheet: A printable summary detailing a gang member / associate's key identifiers to include: Name, DOB, Race, Known Addresses, Affiliation status and Verification status, Criminal Record Number, Booking Numbers and Booking Photo.

Gang Member Verification Report: A printable summary of any items used to verify an individual as a gang member / associate.

GANG MEMBER VERIFICATION:

The Department uses a **"10 Point Verification System"** to determine when an individual will be considered a Gang Associate or Gang Member. An individual that does not have a minimum of six (6) points using the 10 Point Verification System will not be included in the Gang Assessment Database.

The following list of items or activities are examples of conduct that could result in an individual's verification for entry into the Gang Assessment Database and are not meant to be all inclusive.

- Prior Validation by a Law Enforcement Agency (9 points)
- Information Received from an Unaffiliated Law Enforcement Agency (8 points)
- Self Admission (8 points)
- Use and or Possession of Group Paraphernalia or Identifiers (4 points)
- Group Related Photograph (2 points)
- Known Group Tattoo or Marking (8 points)
- Information from Reliable, Confidential Informant (5 points)
- Information from Anonymous Informant or Tipster (1 point)
- Victim/Target Affiliated with Member of Rival Group (8 points if not in custody or incarcerated; 3 points if in custody or incarcerated)
- Possession of Documents (8 points if not in custody or incarcerated; 3 points if in custody or incarcerated)
- Named in Documents as a Member (8 points)
- Possession of Gang Publications (2 points)
- Participation in Publications (8 points)
- Court and Investigative Documents (9 points)
- Published News Accounts (1 point)
- Contact with Known Gang Member/Associate (FIO) (2 points per interaction)
- Documented Association (BPD Incident Report) (4 points per interaction)
- Membership Documents (9 points)
- Information Developed During Investigation and/or Surveillance (5 points)
- Information Not Covered By Other Selection Criteria (1 point)

10 Points will result in a person being identified as a Gang Member.

6-9 Points will result in a person being identified as a Gang Associate.

A blank verification form is attached to this rule as Appendix A.

ACCESS:

The Department will provide access to the Gang Assessment Database for each sworn officer and authorized user. All authorized users must complete a User Agreement before gaining access. Officers must have a legitimate law enforcement purpose, which may include an ongoing investigation or in support of a prosecution, for accessing the Gang Assessment Database. The Boston Regional Intelligence Center (BRIC) will serve as the administrator of the central database and ensure that users have adequate access.

Officers will have the following access permissions:

- **READ** all Gang Assessment Database Entries within the system
- **SEARCH** all entries within the system
- **PRINT** specific Gang Associate and/or Member profile pages / face sheets in order to comply with court discovery or to include in an investigative file

Additional access permissions may be granted at the discretion of the Commander of the BIA or his/her designee or the Commander of the Youth Violence Strike Force or his/her designee.

SUBMISSION TO THE GANG ASSESSMENT DATABASE:

Employees will be able to submit an individual for consideration for admission into the Gang Assessment Database. All submissions for verification shall include documentation to support the individual's entry into the Gang Assessment Database using the 10 Point Verification System. This documentation may include, but is not limited to, Incident Reports, FIOs, Intelligence Reports, Form 26s, and information gathered from social media.

Submissions can be made to the Commander of the BRIC or his/her designee or the Commander of the Youth Violence Strike Force or his/her designee.

If the individual is verified as a gang member or gang associate, the name and supporting documentation shall be forwarded to the BRIC for entry into the Gang Assessment Database.

DISSEMINATION OF GANG ASSESSMENT DATABASE INFORMATION:

All data contained in the Gang Assessment Database is considered Law Enforcement Sensitive. Officers may access the Gang Assessment Database when there is a legitimate law enforcement purpose for doing so, such as an ongoing investigation or in support of a prosecution. All court ordered, defense requested, or public requested production of information contained in the Gang Assessment Database should be directed to the Office of the Legal Advisor.

REVIEW OF GANG ASSESSMENT DATABASE ENTRIES

The Commander of the BIA or his/her designee, in collaboration with the Commander of the Youth Violence Strike Force or his/her designee, shall be responsible for ensuring that files are maintained in accordance with the goals and objectives set forth in this Rule. To that end, entries in the Gang Assessment Database shall be reviewed in accordance with state and federal law to determine current Active / Inactive status based on the definitions provided above. Individuals with an Inactive status who have NOT had documented association with another gang member / associate or law enforcement agency within the past 10 years may be reviewed for purge from the system.

[Click to view the Gang Member Verification](#)

William B. Evans
Police Commissioner



GANG ASSESSMENT DATABASE

maintained by the BOSTON REGIONAL INTELLIGENCE CENTER

Gang Member Verification

Person: TESTY, TESTY II (1/2/2003)

In accordance with 28 CFR 23.20 (c), information may not be entered into the Gang Assessment Database unless a reasonable suspicion standard has been met. This standard is met either by a participating agency having a reasonable basis to believe that there is the possibility that an individual or entity is involved in a specific criminal activity or enterprise; or the presumption of reasonable suspicion arises from the accrual of ten (10) points using the following selection criteria. The criminal justice agency submitting the data to the Gang Assessment Database is responsible for establishing the existence of reasonable suspicion of criminal activity.

The headings provided below are illustrative and do not constitute a complete list of the items or activities that could lead law enforcement officials to include an individual in this database.

Gang: select...

PRIOR VALIDATION BY A LAW ENFORCEMENT AGENCY

For purposes of this database, the agency in question must utilize these selection criteria.

☐

9 points

INFORMATION RECEIVED FROM AN UNAFFILIATED LAW ENFORCEMENT AGENCY

An unaffiliated law enforcement agency is an agency which does not utilize these selection criteria.

☐

8 points

SELF ADMISSION

The individual describes him or herself as a gang member.

☐

8 points

USE AND OR POSSESSION OF GROUP PARAPHERNALIA OR IDENTIFIERS

These may included, but are not necessarily limited to, symbols, sayings or slogans, graffiti, hand signs or signals, nicknames, attire, articles of clothing, drawings, or other identifiers used by a particular gang.

☐

4 points

GROUP RELATED PHOTOGRAPH

☐

2 points

KNOWN GROUP TATTOO OR MARKING

☐

8 points

INFORMATION FROM RELIABLE, CONFIDENTIAL INFORMANT

☐

5 points

INFORMATION FROM ANONYMOUS INFORMANT OR TIPSTER

☐

1 points

VICTIM / TARGET AFFILIATED WITH/MEMBER OF RIVAL GROUP

An individual participated in a gang related threat or assault, or an individual has been the victim or target of rival gang members.

☐ If not in custody or incarcerated: 8 points

☐ If in custody or incarcerated: 3 points

POSSESSION OF DOCUMENTS

Documents include by-laws, ceremonial procedures, rosters, hit list, address book, or other documents related to gang membership.

☐ If not in custody or incarcerated: 8 points

☐ If in custody or incarcerated: 4 points

NAMED IN DOCUMENTS AS A MEMBER

An individual who is named in letters, by-laws, rosters, address books, or similar internal documents as a member of a gang.

☐ 8 points

POSSESSION OF GANG PUBLICATIONS

☐ 2 points

PARTICIPATION IN PUBLICATIONS

An individual submits articles, illustrations, advertisements to a known gang publication.

☐ 8 points

COURT AND INVESTIGATIVE DOCUMENTS

Possession of documents that identify a defendant as a gang member in a true bill indictment, probation report, or similar official court record, or possession of documents (including but not limited to police reports, gang jury minutes, proffer letters, reports of proffer sessions, cooperation agreements, and other law enforcement investigative materials) that identify individuals as gang members.

☐ 9 points

PUBLISHED NEWS ACCOUNTS

Detailed news articles in legitimate print or electronic media indicating gang membership or association.

☐ 1 point

CONTACT WITH KNOWN GANG MEMBERS/ASSOCIATES (FIO)

Visiting, corresponding, or engaging in financial transactions with gang members or associates.

☐ 2 points per interaction or transaction

DOCUMENTED ASSOCIATION (BPD 1.1/Incident Report)

Walking, eating, recreating, communicating, or otherwise associating with confirmed gang members or associates.

☐ If not in custody or incarcerated: 4 points per interaction or transaction

☐ If in custody or incarcerated: 4 points per interaction or transaction

MEMBERSHIP DOCUMENTS

Possession of membership documents, certificate of rank or title, letter of introduction or recognition.

☐ 9 points

INFORMATION DEVELOPED DURING INVESTIGATION AND/OR SURVEILLANCE

☐ 5 points

INFORMATION NOT COVERED BY OTHER SELECTION CRITERIA

☐ 1 point

total: 0

The Gang Assessment Database shall not contain any information that has been obtained in violation of any federal, state or local law or ordinances.

save

EXHIBIT B



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

Massachusetts

Adriana Lafaille, Staff Attorney
(617) 482-3170 ext. 308
alafaille@aclum.org

May 21, 2018

Boston Police Department
Legal Department
One Schroeder Plaza
Boston, MA 02120

Re: Public Records Request

To whom it may concern:

This letter constitutes a request under the Public Records Law, G.L. c. 66, § 10 for documents made or received by the Boston Police Department (BPD) and the Boston Regional Intelligence Center (BRIC). The request is made on behalf of the American Civil Liberties Union of Massachusetts, Kids In Need of Defense, the Justice Center of Southeast Massachusetts, National Lawyers Guild – Massachusetts Chapter, Justice Center of Southeast Massachusetts, Ascentria Care Alliance, Committee for Public Counsel Services, Greater Boston Legal Services, Children's Law Center of Massachusetts, Massachusetts Law Reform Institute, Muslim Justice League, Community Legal Services and Counseling Center, the Charles Hamilton Houston Institute for Race and Justice, Political Asylum/Immigration Representation Project, the Young Abolitionists, and Families for Justice as Healing.

This request seeks information about the databases in which the BPD and BRIC track information about alleged gang members. In the following request, any reference to a "gang or other relevant database" refers to the Gang Assessment Database and any other database or system of keeping criminal or other intelligence information in which notations are made about any individual's:

- a. gang membership, gang affiliation, or gang association;
- b. admissions of gang membership, or identification as a gang member, associate, or affiliate by another law enforcement agency, by an informant, or in a news account;
- c. contact or association with gang members, including financial transactions, walking, eating, recreating or communicating;
- d. possession or use of gang paraphernalia or gang identifiers, use of gang-related tattoos, or posting of gang-related material on social media;
- e. presence in a gang-related photograph or documents;

- f. involvement with gang publications, or possession of gang publications or documents, including court or investigative documents; or
- g. involvement in a gang-related threat, assault, or incident, including as a victim or target.

Requested documents:

1. By-laws, policies, procedures and training: For any gang or other relevant database as defined in this request, please provide the by-laws, operating procedures, and user agreement for the database, as well as all other documents, rules, policies, procedures, or training relating to:

- a. the entry of individuals or information into the database;
- b. the validation of information included in the database;
- c. the determination of probable cause, reasonable suspicion, criminal predicate, or legitimate intelligence purpose;
- d. the determination of whether information has been obtained in violation of federal, state, or local law or ordinance;
- e. the determination of information's relevancy or importance;
- f. notification to individuals of their inclusion in the database;
- g. the correction of errors or destruction of misleading, obsolete, or unreliable information;
- h. data retention or purging of information;
- i. access to the database and/or to the facilities in which the database is kept or accessed;
- j. remote access to the database;
- k. the dissemination of information, both within the agency and to other entities;
- l. information exchange with any other information systems;
- m. the determination of another entity or individual's need to know or right to know information contained in the database;
- n. the privacy and security of information included in the database;
- o. audits or inspection of information provided, analyzed, or verified by participating agencies;
- p. the software and hardware used for the database;
- q. safeguards to protect against unauthorized access or damage;
- r. sanctions for unauthorized access, use, or disclosure of information in the database; or
- s. any plan for compliance with 28 C.F.R. § 23.20.

2. Database characteristics and access: For any gang or other relevant database as defined in this request, please provide all documents containing information relating to:

- a. the total number of individuals in the database;

- b. the demographic breakdown of persons listed in the gang database, including by race, national origin, gender, zip code of residence, or age;
- c. the funding of the database;
- d. the agency or individual with official responsibility for the database, including responsibility for compliance with the requirements of federal, state, and local law or ordinance;
- e. the number of authorized users of the database, including the number who have each type or level of permission;
- f. the agencies and/or individuals and their affiliated agency authorized to read, search, print, submit, receive, or edit information in the database;
- g. the agencies and/or individuals and their affiliated agency who may log on to the database;
- h. the agencies and/or individuals and their affiliated agency who may access the database remotely;
- i. the agencies to which the rules, policies, procedures, and training materials described in paragraph 1 are provided;
- j. remote or other access to the database by agents of the Department of Homeland Security (including its sub-agencies like Immigration Customs Enforcement and its components), and the levels of permission of these agents;
- k. dissemination of information from the database to agents of the Department of Homeland Security, including its sub-agencies like Immigration Customs Enforcement and its components;
- l. any agreement, whether formal or informal, to exchange information in the database with any other federal, state, regional or other information system;
- m. any disciplinary proceeding or sanctions issued for unauthorized access, utilization, or disclosure of information contained in the database;
- n. any audit of the BPD's, BRIC's or any other participating agency's compliance with criteria for entry and dissemination of information in the database;
- o. any record of waiver by the Attorney General under 28 C.F.R. § 23.20(o) of any requirements of § 23.20; or
- p. the role of the database with respect to reducing violent crime, dismantling gangs, or aiding in criminal prosecutions or immigration enforcement.

3. **Audits and compliance records:** For any gang or other relevant database as defined in this request, please provide all records relating to audits or compliance with regard to whether:

- a. entries in databases are compliant with the requirements of federal, state, and local law or ordinance;
- b. FIOE reports have been inspected by a BPS detective supervisor for legibility, completeness, and articulation of justification for the FIOE;
- c. field encounters, interactions, stops, searches, and frisks are conducted, recorded, and entered in compliance with BPD Rule 323 and federal and state laws and regulations, including a record of any FIOEs found not to be compliant;
- d. any dissemination of contents of a database is done in compliance with BPD Rule 323 and 28 C.F.R. § 23.20; or
- e. reports sent from Boston Public School employees or Boston School Police comply with state and federal laws and regulations, including 34 C.F.R. § 99.31 and 603 Mass Code Regs. § 23.07.

4. **Database entries:** For any gang or other relevant database as defined in this request, please provide the record of each individual included in the database, including all Profile Page / Face Sheets and Gang Member Verification Reports described in Rule 335 and any school incident reports. Please omit or redact the individual's name, day and month of birth, and street address (number and street only), but do not omit or redact year of birth (unless age is separately provided), zip code, race, ethnicity, place of birth, national origin, and bases for point accrual.

5. **Records of dissemination of information:** For any gang or other relevant database as defined in this request, please provide the record, under 28 C.F.R. § 23.20(g), of every instance since January 1, 2015 in which information from the database has been disseminated, including the reason for the release of the information, the receiving agency and individual, and date of the dissemination.

6. **Policies and guidance regarding identification and monitoring of gang members:** Please provide all rules, policies, procedures, training, guidance, formal or informal resources, and other documents relating to:

- a. the clothing, appearance, activities, frequented locations, and demeanor indicative of any gang membership or association, including of "MS13," "MS", "Salvatrucha", "18", "Barrio 18", "Calle 18", or any affiliates;
- b. the preparation, presentation, use, storage, and dissemination of "gang intelligence reports";
- c. the presentation, use, storage, and dissemination of "gang intelligence reports" compiled by Boston Police Department School Police Unit, Boston School Police and School Resource Officers, the Massachusetts state police, other local police departments, or other law enforcement agencies; or

- d. direct communication with Department of Homeland Security (including its sub-agencies like Immigration Customs Enforcement and its components) about an individual about whom there is an allegation of gang membership or association.

7. Policies and guidance regarding identification and monitoring of gang members in schools: Please provide any rules, policies, procedures, training, guidance, formal or informal resources, and other documents provided to the Boston Police Department School Police Unit, Boston School Police and School Resource Officers on:

- a. the clothing, appearance, activities, frequented locations, and demeanor indicative of any gang membership or association, including of "MS13," "MS", "Salvatrucha", "18", "Barrio 18", "Calle 18", or any affiliates;
- b. the preparation, presentation, use, storage, and dissemination of "gang intelligence reports";
- c. the Gang Assessment Database;
- d. assessing and determining information that is necessary to protect the health or safety of a student or individual;
- e. direct communication with Department of Homeland Security (including its sub-agencies like Immigration Customs Enforcement and its components) about a student or individual about whom there is an allegation of gang membership or association; or
- f. the circumstances under which information may be shared with non-school individuals or entities, the means for sharing that information, and the limits on the authority to share information.

Because this request involves a matter of public concern and because it is made on behalf of nonprofit organizations, we ask that you waive any copying costs pursuant to 950 C.M.R. § 32.06(5).

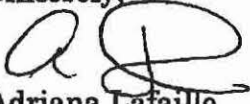
Please provide documents in electronic format where possible. Should you determine that some portion of the documents requested are exempt from disclosure, please release any reasonably segregable portions that are not exempt. In addition, please note the applicable statutory exemption and explain why it applies to the redacted portions. As you know, a custodian of public records shall comply with a request within ten days after receipt.

Please reply to this request by contacting Adriana Lafaille at alafaille@aclum.org or 617-482-3170 x 308.

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Boston Police Department
May 21, 2018

Thank you for your assistance. We look forward to your response.

Sincerely,



Adriana Lafaille
ACLU Foundation of Massachusetts, Inc.

Elizabeth Ahmadi
Ascentria Care Alliance

David Harris
Charles Hamilton Houston Institute for Race and Justice

Claire Valentin
Children's Law Center of Massachusetts

Wendy Wayne
Committee for Public Counsel Services

John Froio
Community Legal Services and Counseling Center

Mallory Hanora
Families for Justice as Healing

Nancy Kelly
Greater Boston Legal Services

Emily Leung
Justice Center of Southeast Massachusetts

Elizabeth Badger
Kids In Need of Defense

Iris Gomez
Massachusetts Law Reform Institute

Shannon Al-Wakeel
Muslim Justice League

Page 7
Boston Police Department
May 21, 2018

Urszula Masny-Latos
National Lawyers Guild – Massachusetts Chapter

Anita Sharma
Political Asylum/Immigration Representation Project

Alex Ponte-Capellan
Young Abolitionists

EXHIBIT C

Via Email Only:

alafaille@aclum.org

July 3, 2018

Adriana Lafaille, Esq.
Staff Attorney
ACLU Foundation of Massachusetts
211 Congress Street
Boston, MA 02110

Re: Your Public Record Request

Dear Attorney Lafaille,

The Boston Police Department ("Department") has received your request for "information about the databases in which the [Department] and [Boston Regional Intelligence Center or] BRIC track information about alleged gang members." Please see the Department's response below.

Relative to item one (1) of your request, which seeks "the by-laws, policies, procedures, and training" as well as the "user agreement for the database," attached please see the following: Boston Police Department Rule 335 – Gang Database Assessment, which includes a blank verification; the BRIC Privacy, Civil Rights, and Civil Liberties Protection Policy; Special Order 13-009 Mobile Device Policy; the Data Use Agreement with the MBTA Transit Police; and the Data Use Agreement with the Bureau of Alcohol, Tobacco, Firearms, and Explosives.

Relative to item two (2) of your request seeking "database characteristics" and contains subparts (a) through (p), item (3) of your request seeking "audits and compliance records," and item five (5) seeking "records of dissemination of information" from the gang database from January 1, 2015 to the present, be advised that the Department is still in the process of reviewing these requests in order to determine how to search for and segregate responsive material. As such, per our conversation last week, the Department will supplement its response to these items once it has identified the potentially responsive materials.

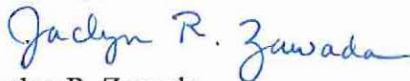
Relative to item four (4) seeking "database entries" including "the record of each individual included in the database," be advised that the responsive material is not subject to public disclosure. See G.L. c.4, s.7(c), (f) and (n). Beyond containing personal information and information which if disseminated would also undermine the security and safety of persons and buildings, the records you seek also contain material properly withheld under the investigative exemption. The exemption allows investigative officials to withhold materials that could compromise investigative efforts if disclosed. Accordingly, a records custodian may withhold information that could potentially alert suspects to the activities of investigative officials, and similarly, records custodians may withhold confidential investigative techniques indefinitely

since their disclosure would prejudice future law enforcement efforts. Certainly, public dissemination of all entries in the gang database would alert members of the public, including those involved in gang activity, of the Department's investigative activities and would therefore interfere with the Department's ability to identify gang activity and conduct investigations going forward. As such, this request must be denied.

In response to item six (6) and seven (7), both of which seek various records "regarding identification and classifying of gang members," the Department maintains that gang database records beyond those provided in response to item one (1) are exempt from public disclosure. See G.L. c.4, s.7(c), (f) and (n). Beyond containing personal information and information which if disseminated would also undermine the security and safety of persons and buildings, the records you seek also contain material properly withheld under the investigative exemption. The exemption allows investigative officials to withhold materials that could compromise investigative efforts if disclosed. Accordingly, a records custodian may withhold any information relating to an ongoing investigation that could potentially alert suspects to the activities of investigative officials, and similarly, records custodians may withhold confidential investigative techniques indefinitely since their disclosure would prejudice future law enforcement efforts. Certainly, public dissemination of documents "regarding identification and monitoring of gang members" would hamper the Department's ability to identify gang activity as well as conduct criminal investigations going forward. As such, these requests must be denied.

Please note that this office does not provide legal assistance, opinions, or explanations about police policy to the public and will not respond to any such request. You may appeal this response to the Supervisor of Records. G. L. c. 66, § 10A (c); G. L. c. 66, § 10(b)(ix); 950 CMR 32.08; 950 CMR 32.08(1)(h). Your attention to this matter is appreciated.

Sincerely,



Jaclyn R. Zawada
Staff Attorney
Office of the Legal Advisor

cc: Shawn A. Williams, Esq., Director of Public Records, City of Boston *(Via Email Only)*
Martha DeMaio, Director of Public Information, Boston Police Department *(Via Email Only)*

EXHIBIT D



Adriana Lafaille
Staff Attorney
(617) 482-3170 x308
alafaille@aclum.org

August 8, 2018

Via Email

Jaclyn R. Zawada
Staff Attorney
Office of the Legal Advisor
Boston Police Department
1 Schroeder Plaza
Boston, MA 02120
jaclyn.zawada@pd.boston.gov

Re: May 21, 2018 Public Records Request

Dear Attorney Zawada:

We have received your July 3, 2018 response to our May 21, 2018 public records request. I understand based on our June 28, 2018 phone conversation that your response is on behalf of both the Boston Police Department and the Boston Regional Intelligence Center.

In order to satisfy their obligations under G.L. c. 66, § 10, please continue providing documents in response to paragraph 1 of our request, provide documents in response to paragraphs 2, 3, and 5 of our request, and reconsider the denial of records responsive to paragraphs 4, 6, and 7 of our request.

Paragraph 1: You have provided only five documents in response to our request for policy and other documents related to gang or other relevant databases. Two of these documents appear to be four-page documents, but only the first two pages are provided. In addition, while our request encompasses all databases in which gang information is kept—not only the gang assessment database—you have provided only one document specifically relating to the gang assessment database and no documents about any other database. Please complete the search for responsive documents and inform us of when you will be able to complete production of responsive documents.

Paragraphs 2, 3 and 5: Your July 3, 2018 response indicates that you were continuing to search for documents responsive to paragraphs 2, 3 and 5. Please provide these documents promptly, and inform us of when you will be able to complete production.

Paragraphs 4, 6, and 7: You cite G.L. c. 4, § 7, Twenty-sixth (c), (f), and (n) as justification for withholding records responsive to paragraphs 4, 6 and 7 of our request. These portions of our request seek gang and other database records, policies and guidance regarding identification and monitoring of gang members, and policies and guidance regarding identification and monitoring of gang members in schools. The exemptions cited in your July 3 letter do not justify a blanket denial of these records.

Subsection (c) and (n) are wholly inapplicable. Subsection (c) exempts from the definition of public records “materials or data relating to a specifically named individual, the disclosure of which may constitute an unwarranted invasion of personal privacy.” G.L. c. 4, § 7, Twenty-sixth (c). This exemption has no relevance to our request, as we specifically asked that each individual’s name, day and month of birth, and street address be omitted or redacted from responsive documents. *See Champa v. Weston Pub. Sch.*, 473 Mass. 86, 98 (2015) (“[O]nce the appropriate redactions of personally identifiable information are made, the [records] will no longer fit within the scope of exemption (c) and must be disclosed.”).

Subsection (n) exempts “blueprints, plans, policies, procedures and schematic drawings . . . or any other records relating to the security or safety of persons or buildings . . . the disclosure of which, in the reasonable judgment of the record custodian . . . is likely to jeopardize public safety or cyber security.” G.L. c. 4, § 7, Twenty-sixth (n). This exemption is also inapplicable to the records we requested. As recognized by the Supreme Judicial Court, exemption (n) was enacted on the one-year anniversary of the September 11 terrorist attacks, and is intended to protect records “a terrorist would find useful to maximize damage.” *People for the Ethical Treatment of Animals, Inc. v. Dep’t of Agric. Res.*, 477 Mass. 280, 289 (2017). The SJC has endorsed a “narrow interpretation of exemption (n)” and has limited its applicability to records “likely to jeopardize public safety in a similar way to one of the examples listed,” i.e. blueprints, plans, and schematic drawings that relate to internal layouts and structural elements of public buildings and infrastructure or policies and procedures for security measures and emergency preparedness. *Id.* at 288. The Court specifically rejected a broad reading of the “any other records” clause of exemption (n). *Id.* It also rejected the suggestion that the exemption’s reference to the “reasonable judgment” of the record custodian entails any sort of deference to the custodian’s determination. *Id.* at 291. The records we requested are fundamentally dissimilar to the blueprints and emergency preparedness procedures contemplated by exemption (n), and the exemption therefore has no applicability to our request.

Subsection (f) exempts “investigatory materials necessarily compiled out of the public view by law enforcement or other investigatory officials the disclosure of which materials would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.” G.L. c. 4, § 7, Twenty-sixth (f). Because there is a presumption under the public records law that the record sought is public, the Boston Police Department bears “the burden of proving with specificity” that the exemption for investigatory materials applies to the records requested. *See Globe Newspaper Co. v. Police Com’r of Boston*, 419 Mass. 852, 857 (1995) (internal quotation marks omitted). “[G]eneralized arguments in support of why the materials should not be disclosed” are insufficient to meet the Department’s burden; the Department must instead specifically demonstrate “how disclosure ‘would probably so prejudice the possibility of effective law enforcement that such disclosure would not be in the public interest.’” *Doe v. Bright Horizons Children’s Centers, Inc.*, No. CIV. A. 96-6151, 1998 WL 408965, at *2 (Mass. Super. July 2, 1998) (quoting G.L. c. 4, § 7). There is no “blanket exemption” for investigatory records kept by police departments, and the potential prejudice must be demonstrated on a case-by-case basis. *See Globe Newspaper*, 419 Mass. at 859. The SJC has described the purposes of exemption (f) as:

the avoidance of premature disclosure of the Commonwealth’s case prior to trial, the prevention of the disclosure of confidential investigative techniques, procedures, or sources of information, the encouragement of individual citizens to come forward and speak freely with police concerning matters under investigation, and the creation of initiative that police officers might be completely candid in recording their observations, hypotheses and interim conclusions.

Bougas v. Chief of Police of Lexington, 371 Mass. 59, 62 (1976).

While it may be appropriate for the department to redact and withhold certain documents under subsection (f), the Department could not possibly meet its burden demonstrating that exemption (f) applies to prevent the production of *all* documents responsive to paragraphs 4, 6 and 7 of our request. Your response contains only a general assertion that disclosing the records would “alert members of the public . . . of [sic] the Department’s investigative activities” and “hamper the Department’s ability to identify gang activity.” But you do not attempt to demonstrate with specificity *how* disclosure would “prejudice the possibility of effective law enforcement,” *see Bright Horizons*, 1998 WL 408965, at *2, or how the purposes identified by the SJC would be frustrated by disclosure, *see Bougas*, 371 Mass. at 62. The possibility of prejudice is especially remote given our request that personally-identifying information be redacted from the records disclosed.

Importantly, you do not assert that there is a specific, ongoing investigation that may be compromised by the release of the records. *Compare id.* (finding records fit

within exemption where they “were prepared by police officers in connection with their investigation of an incident which led to criminal proceedings”). Given that one of the primary objectives served by exemption (f) is the “avoidance of premature disclosure of [law enforcement’s] case prior to trial,” the exemption is clearly designed to protect information related to a specific investigation of criminal activity, not general information-gathering unrelated to a particular suspected crime. *See id.*; *see also Rafuse v. Stryker*, 61 Mass. App. Ct. 595, 600 (2004) (records did not fit within exemption in part because government failed to submit proof of “how the disclosure would foreclose any future criminal prosecution”). Because exemption (f) does not justify a blanket denial of paragraphs 4, 6 and 7 of our request, please provide responsive documents, as well a timeline by which these documents will be produced.

I look forward to your response. Please contact me if it would be helpful to discuss any part of our request or this letter.

Sincerely,



Adriana Lafaille

cc: Elizabeth Ahmadi, Ascentria Care Alliance
David Harris, Charles Hamilton Houston Institute for Race and Justice
Claire Valentin, Children’s Law Center of Massachusetts
Wendy Wayne, Committee for Public Counsel Services
John Froio, Community Legal Services and Counseling Center
Mallory Hanora, Families for Justice as Healing
Nancy Kelly, Greater Boston Legal Services
Emily Leung, Justice Center of Southeast Massachusetts
Elizabeth Badger, Kids In Need of Defense
Iris Gomez, Massachusetts Law Reform Institute
Shannon Al-Wakeel, Muslim Justice League
Urszula Masny-Latos, National Lawyers Guild – Massachusetts Chapter
Anita Sharma, Political Asylum/Immigration Representation Project
Alex Ponte-Capellan, Young Abolitionists