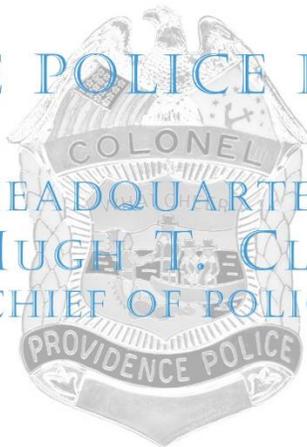


**Exhibit A - General Order 360.10, Gang Member
Designation December 10th, 2018**

PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS
COLONEL HUGH T. CLEMENTS, JR.
CHIEF OF POLICE



TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	360.10	12/10/2018	12/10/2018
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
Intelligence Assessment Database		6/1/2018	
REFERENCE		RE-EVALUATION DATE	
N/A		6/10/2019	
SUBJECT AREA		DISTRIBUTION	
Law Enforcement Operations		All Sworn Personnel	

PURPOSE

The purpose of this policy is to establish the creation of the Providence Police Department's Intelligence Assessment Database and to define parameters pertaining to its structure and use.

POLICY

It is the policy of the Providence Police Department to implement and maintain an intelligence-driven database system that provides: (1) the ability to identify and differentiate between gang members and non-gang members; (2) information that can be used to devise effective interdiction strategies and afford protections to the community from criminal activity, including gang-related crimes and violence; and (3) fair, unbiased, and constitutionally sound methods of gang member designation and designation appeal procedures that adhere to all applicable Providence City Ordinances and state and federal laws.

DISCUSSION

The mission of the Providence Police Department Violent Crime Task Force (VCTF) is to proactively reduce gun violence, particularly concentrating on individuals affiliated with gangs or violent criminal behavior. The VCTF utilizes traditional policing strategies, incorporating prevention, intervention and enforcement efforts, as well as intelligence-led policing strategies to inform decision-making at every level.

Case 1:19-cv-00378 Document 1-1 Filed 07/16/19 Page 3 of 39 PageID #: 17
Patrol officers and detectives collect information and focus on sources of firearm and gang violence through the identification of individuals, groups, and locations. VCTF 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 VCTF makes contact are referred to social service agencies and are offered a variety of opportunities for services and supports.

For the purpose of this General Order, the following definitions shall apply:

Criminal Street Gang (i.e. "Gang"): An ongoing organization, association, or group of three (3) or more persons, whether formal or informal, having as one of its primary activities the commission of criminal or delinquent acts; having an identifiable name or common identifiable signs, colors, or symbols; and whose members individually or collectively engage in, or have engaged in, a pattern of criminal activity.

Gang Member: Any person, whether a juvenile or an adult, who has attained a minimum of ten (10) points based upon the fifteen (15) weighted criteria of the Department's gang member verification system. However, the Chief of Police and the Commissioner of Public Safety shall have the sole discretion to remove the gang member designation or decline to designate the individual as a gang member.

Intelligence Assessment Database: A database maintained by the VCTF that includes gang members and other subjects deemed appropriate for entry into the database for intelligence purposes.

Intelligence: A collection of information to be used for investigative purposes.

Gang Member Verification Report: A printable summary of the criteria used to verify an individual as a gang member.

PROCEDURE

I. GENERALLY

- A. No police officer shall identify any individual as a member of a gang in any list or database maintained by the Department, nor in any reports, memoranda or other document, unless the individual meets the criteria for designation as a gang member. No Police Department official authorized to enter information into the Intelligence Assessment Database ("the database") shall identify any individual as a gang member in written notes unless the individual meets the criteria for designation as a gang member. The list of criteria used to determine gang membership shall be public information, and shall be subject to review by the Providence External Review Authority (PERA).

II. GANG MEMBER DESIGNATION

- A. The Department uses a gang member verification system utilizing fifteen (15) weighted criteria to determine when an individual will be considered a gang member. An individual that does not have a minimum of ten (10) points using the fifteen (15) weighted criteria will not be designated as a gang member within the database.
- B. The following list represents the fifteen (15) weighted criteria that shall be used to establish an individual's designation as a gang member within the database:
1. Prior gang member validation by a law enforcement agency that follows criterion that is acceptable and reflective of federal, state or local intelligence assessment policies and practices (9 points).
 2. Named as a gang member in gang-related information received from an unaffiliated law enforcement agency (2 points).
 3. Self-admission (10 points).
 4. Use and/or possession of gang group paraphernalia or identifiers (4 points).
 5. Appearance in gang group-related photographs (2 points).
 6. Bearing known gang group tattoo or marking (8 points).
 7. Named as a gang member in gang-related information from reliable, confidential informants (6 points).
 8. Named as a gang member in gang-related information from an anonymous informant or tipster (1 point).
 9. Possession of gang-related documents (4 points).
 10. Named in gang-related documents as a gang member (8 points).
 11. Contributor in gang publications (8 points).
 12. Named as a gang member in court and investigative gang-related documents that meet the general criterion principals for intelligence assessment databases (9 points).
 13. Documented as having been present at the scene of gang activity on three (3) or more occasions (3 points).
 14. Identified as a gang member in electronic surveillance and/or open source intelligence (6 points).
 15. Identified as being involved in gang activity in electronic surveillance and/or open source intelligence (3 points).
- C. Notwithstanding that an individual may have attained 10 points, the Chief of Police or the Commissioner of Public Safety shall maintain sole discretion to remove the gang member designation or decline to designate the individual as a gang member.
- D. The exclusive fact that an individual is in the intelligence assessment database does not constitute reasonable suspicion or probable cause for the purposes of searching, detaining or arresting any individuals.
- E. Any individual may make a direct inquiry at the Providence Public Safety Complex with the Office of Professional Responsibility to learn whether their name has been included in the intelligence assessment database. If such disclosure does not adversely impact imminent law enforcement action, the

individual shall be informed of whether or not they are designated as a gang member by written notice no later than ten (10) business days after the inquiry is received. Additionally, the written notice shall explain the right to appeal and the process by which to appeal the individual's designation as a gang member. The fact that an individual inquired about their designation shall not constitute evidence that the individual is a gang member, nor shall it be included in the criteria for the individual's designation as a gang member.

- F. Prior to designating any individual under eighteen (18) years of age as a gang member, the Providence Police Department shall provide written notice of the designation and the basis for the designation by notarized letter, delivered via certified mail, to the individual and their parent(s) or legal guardian(s), unless such disclosure would adversely impact imminent law enforcement action or endanger the individual. Additionally, the written notice shall explain the right to appeal and the process to appeal the individual's pending designation as a gang member.

III. SUBMISSIONS TO THE INTELLIGENCE ASSESSMENT DATABASE

- A. Officers are able to submit an individual for consideration for admission into the database utilizing the criteria included in subsection II. B. of this policy. All prospective gang member designation submissions shall include documentation to support the individual's entry into the database based upon the Department's gang member verification system. This documentation may include, but is not limited to, incident reports, intelligence reports, and information gathered from social media. Submissions may be made to members of the VCTF, with final approval for database entry made by the Commanding Officer of the VCTF prior to the entry of the individual into the database.

IV. ACCESSING THE INTELLIGENCE ASSESSMENT DATABASE

- A. The Department will provide access to the database for each sworn officer and authorized user. All officers/authorized users must complete a User Agreement before being granted access to the database. Officers/authorized users must have a legitimate law enforcement purpose for accessing the database, such as an ongoing investigation or in support of prosecutorial efforts.
- B. Officers not assigned to the VCTF will have the following access permissions:
 - 1. READ all database entries within the system.
 - 2. SEARCH all database entries within the system.
- C. Additional access permissions may be granted at the discretion of the Commanding Officer of the Investigative Division.

- D. Only members assigned to the VCTF will have data entry ability with approval by the Commander of the VCTF.

V. DISSEMINATION OF INTELLIGENCE ASSESSMENT DATABASE INFORMATION

- A. All data and information contained in the database is law enforcement sensitive. All court ordered, defense requested, or public requested production of information contained in the database shall be directed to the City of Providence Law Department.

VI. REVIEW OF GANG MEMBER DESIGNATION ENTRIES

- A. The Commander of the Investigative Division or designee, in collaboration with the Commander of the VCTF or designee, shall be responsible for ensuring that database files are maintained in accordance with the goals and objectives set forth in this directive and in accordance with the Providence Community-Police Relations Act.
- B. If an individual has no convictions within a two-year period after having been designated as a gang member, and no new evidence or documentation meeting the criteria for designation as a gang member has been presented, the individual shall no longer be designated as a gang member and all records directly related to designation as a member on the gang list and all related records destroyed automatically. A letter confirming that the individual is no longer designated as a gang member shall be sent to the individual at their last known address. Notwithstanding the above, the two-year period shall not include any time that the individual spent incarcerated or serving a suspended sentence.

VII. GANG MEMBER DESIGNATION APPEALS

- A. Any individual who is designated as a gang member may appeal their designation by filing a civilian complaint with the Office of Professional Responsibility (OPR) by U.S. mail, electronic mail or telephonic request by the individual or their attorney. A joint investigation of the complaint by OPR and the Commanding Officer of the VCTF that includes an analysis of the individual's Gang Member Verification Report shall be conducted in accordance with the procedures pertaining to civilian complaint investigations. If the police department and the individual agree that the individual's name was included on the list in error, the name shall be removed. The Chief of Police shall make final decisions on gang member designation appeals, and/or;
- B. An individual who is designated as a gang member may also challenge that designation via a formal appeals process to PERA, in accordance with all applicable Providence City Ordinances and state and federal laws.

- C. In the event that an appeal is not successful, a notation will be made in the individual's database record, and in any transmission of the information concerning that individual, documenting that the individual disagrees with their designation as a gang member. The appellant in an unsuccessful appeal shall not be permitted to appeal their designation as a gang member again for at least one (1) calendar year.
- D. No information related to on-going appeals or successfully contested appeals of gang member designations shall be shared with any third party unless required by law.

VIII. PROVISIONS

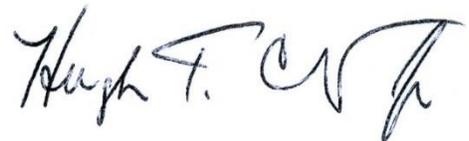
- A. Each year, the Providence Police Department shall produce a report providing the total number of individuals who are designated as gang members, the total number of individuals who have challenged their respective designations as gang members, and the total number of individuals removed from the Intelligence Assessment Database along with demographic detail including age, race, ethnicity, and gender.
- B. Each year, the Providence Police Department shall engage an independent auditor, selected by PERA, the City Solicitor, and the Commissioner of Public Safety, to audit the Intelligence Assessment Database, identify any errors, and make recommendations for improving the operations and use of the database. A full report of the results of the audit shall be provided to the Commissioner of Public Safety, the Chief of Police, and to PERA for its review. In the auditor's report, the names of individuals who have been designated as gang members shall not be included, and shall, instead, be replaced with unique identifying numbers. The identity of the auditor shall remain confidential.

APPROVED:



STEVEN M. PARÉ
COMMISSIONER
DEPARTMENT OF PUBLIC SAFETY

APPROVED:



HUGH T. CLEMENTS, JR.
COLONEL
CHIEF OF POLICE

**Exhibit B - Providence Municipal Code 18.5-4
Community Safety Act**

Sec. 18½-4. - Providence Community-Police Relations Act.

(a) *Definitions* . For the purposes of this section, the following terms shall be defined as follows:

Electronic data collection means a report produced from computer-aided dispatch (CAD), electronic documentation, or any other police-generated report, in accordance with R.I.G.L. § 31-21.2-5(c), and shall include all the following information:

- (1) The date, time and general location of the stop;
- (2) The race or ethnicity, gender, and approximate age of the individual(s) stopped; provided that the identification of these characteristics shall be based on the observation and perception of the police officer making the stop and the information shall not be requested of the person(s) stopped;
- (3) In the law enforcement officer's own words, the reasonable suspicion and/or probable cause, if such exists, giving rise to the stop;
- (4) Whether a search was executed as a result of the stop;
- (5) The scope of any search conducted;
- (6) Whether the search was conducted pursuant to probable cause and/or reasonable suspicion, and what the probable cause and/or reasonable suspicion prompting the search was in the officer's own words;
- (7) Whether any contraband, including money, was seized in the course of the search, and if so, the nature of the contraband;
- (8) Whether any warning or citation was issued as a result of the stop;
- (9) Whether an arrest was made as a result of either the stop or the search;
- (10) The approximate duration of the stop; and
- (11) The federal identification number of the officer.

Investigatory activity means any traffic stop, pedestrian stop, interview, interrogation, detention, frisk, pat-down, Terry frisk, Terry pat-down, or any search of a person or property.

Law enforcement officer , or *police officer* means any member of the Providence Police Department, duly sworn and vested with police power.

Limited English Proficient individual means any person whose primary language is not English and/or who does not have the ability to adequately understand or communicate effectively in English.

Qualified interpreter means an individual who is able to interpret simultaneously and consecutively and sight translate from English into a foreign language and from said language into English, in accordance with R.I.G.L. § 8-19-2.

Racial and other forms of discriminatory profiling is defined as the reliance on race, ethnicity, color, national origin, use of a foreign language, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, physical or mental disability, or serious medical condition as a basis, in whole or in part,

for suspecting that a person has committed or is about to commit a crime or is about to commit a crime, unless the officer's decision is based on a specific and reliable suspect description as well.

Transgender is an umbrella term that describes individuals whose gender identity is different from their assigned sex at birth.

- (b) *Prohibition on racial and other forms of discriminatory profiling* . When conducting any investigatory activity, law enforcement shall not rely on race, ethnicity, color, national origin, use of a foreign language, limited English proficiency, gender, gender identity and/or expression, sexual orientation, political affiliation, religion, housing status, physical or mental disability, or serious medical condition as a basis, in whole or in part, for suspecting that a person has committed or is about to commit a crime, unless the officer's decision is based on a specific and reliable suspect description that includes not just these characteristics, but other identifying characteristics or information as well.
- (c) *Documentation* .
 - (1) *Electronic data collection report* .
 - a. An officer completing an electronic data collection report shall record the information identified in subsection (a)(3) of this section.
 - b. The Providence Police Department shall establish policies clearly outlining the definition of "stop" and shall require the completion of an electronic data collection report the completion of all stops. Said policies shall be public documents and shall be made available on the police department website. The Providence External Review Authority shall be notified of any changes to this policy and shall have the power to review and make recommendations for improving the policy.
 - c. The subject of a traffic or pedestrian stop shall be able to request and receive, at the police station, a physical copy of the report which includes all of the data elements identified in subsection (a)(3) within seventy-two (72) hours of the stop.
 - d. No later than one (1) year after the passage of this ordinance, it shall be required that, at every stop, the officer shall provide the subject with information regarding the stop including a reference number to access their report, the officer's federal identification number, and the contact information for the Providence External Review Authority.
 - (2) *Video and audio recording* .
 - a. The Providence Police Department shall adopt written policies regarding the use of video and/or audio recording devices such as, but not limited to, dashboard cameras, body cameras, and digital audio recorders, should the department utilize these devices. These policies shall be public records and shall include, without limitation, the following standards:
 - 1. Standards setting forth when the device is required to be activated and when the device must not be activated.
 - 2. The subject of a stop shall be advised by the officer that the encounter is being

recorded when practicable and consistent with ensuring officer safety and the safety of others.

3. A chain of custody record of the recordings shall be maintained.
 4. Once a video/audio recording of a stop has been preserved by the police department for further investigation beyond the minimum retention period established by policy, the subject of said stop shall be notified by the police department of this action and shall be informed that they, and or their legal counsel, shall have the right to request to view and listen to the recording involving them at a reasonable time and location within ten (10) business days of the request provided that such notification does not adversely impact imminent law enforcement action.
 5. The policy shall establish a minimum period of retention for such recordings of no less than sixty (60) days, and procedures to ensure that the recording equipment is in proper working order, and shall bar the destruction of any recording related to an incident that is the subject of a pending complaint, misconduct investigation or civil or criminal proceeding. Such recordings shall be retained for a minimum of ten (10) days after the final resolution of such investigation or proceeding, including the time for any appeal;
 6. The policy shall explicitly prohibit any violation of these requirements, including any attempts to disengage or tamper with the video/audio surveillance equipment or to otherwise fail to record stops as specified in the policy;
- b. While on duty and in interactions with the public, police shall be prohibited from using personal audio or video recording devices. Only devices subject to the policy outlined above shall be permitted.
 - c. Police shall not interfere with, harass, demand identification from, or otherwise intimidate members of the public making video or audio recordings of police activity in any place the individual who is recording has a legal right to be present. Law enforcement officers shall not intentionally block or obstruct cameras or other recording devices. Law enforcement officers shall not damage or destroy recording devices or cameras, and deleting and/or altering recordings or photographs under any circumstances shall be prohibited. However, nothing contained within this section shall limit the ability of an officer to take appropriate action, if the actions of those recording interfere with the officer's official duties or with the safety of the officer or others.

(d) *Traffic stops* .

- (1) Prior to asking the subject of a vehicle stop for their license, a law enforcement officer must, when practicable and consistent with ensuring officer safety or the safety of others, describe to the subject the suspected violation that prompted the stop.
- (2) No operator of a motor vehicle shall be requested to provide any documentation or identification other than a driver's license or a form of identification listed in subsection (f)(7), motor vehicle registration, and/or proof of insurance when the motor vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion and/or probable

cause of criminal activity, or the operator has failed to produce a valid driver's license, or the particular type of vehicle stopped requires other types of documentation specified under R.I.G.L. Tit. 31 or under Federal Law.

- (3) No passenger of a motor vehicle shall be requested to provide identification or any other documentation by a law enforcement officer when the motor vehicle has been stopped solely for a traffic violation, unless there exists reasonable suspicion and/or probable cause of criminal activity.
 - (4) Unless there exists reasonable suspicion and/or probable cause of criminal activity, no motor vehicle stopped for a traffic violation shall be detained beyond the time needed to address the violation.
 - (5) When an individual is cited for driving without a valid license under R.I.G.L. § 31-11-18—18.1 and this constitutes the only criminal charge resulting from the traffic stop, the individual may be issued a court summons but may not be arrested, provided that the individual can show identification including alternative forms of identification as described in subsection (f)(7). However, in accordance with R.I.G.L. § 31-11-18.1(a) nothing in this section shall prohibit the arrest of individuals cited for driving when their license to operate is suspended, revoked, or cancelled for:
 - a. Operating under the influence of a narcotic drug or intoxicating liquor;
 - b. Refusing to submit to a chemical test; reckless driving;
 - c. Manslaughter from the operation of a motor vehicle or operating so as to endanger resulting in death; or
 - d. Three (3) moving violations within a one-year period.
- (e) *Searches.*
- (1) Any individual requested to consent to a search by a law enforcement officer of their motor vehicle, person, or belongings shall be informed by the officer of their right to refuse consent to the search. An individual's choice not to consent to a search shall not be deemed reasonable suspicion to conduct a search.
 - (2) When practicable and consistent with ensuring officer safety or the safety of others, searches shall be performed by an officer of the same gender identity as the individual being searched. If an officer of the individual's gender identity is not present at the time, one (1) will be called to the scene as soon as possible so as not to unnecessarily delay the time required to perform the search. Individuals who identify as transgender or gender non-conforming have the right to indicate their preference to be searched by either a male or female officer. If the individual's gender request can be reasonably and expeditiously accommodated without risk to officer safety, the request should be granted. The Providence Police Department shall develop and maintain policies and protocols for how officers shall conduct searches of transgender and gender non-conforming individuals. Said policies shall be public documents, available on the police department website, and shall be subject to review by the Providence External Review Authority.

(f) *Surveillance and privacy*.

- (1) Providence Police Department shall not engage in targeted electronic surveillance to collect or retain information about the lawful activities of targeted individuals or groups without reasonable suspicion that such activities relate to criminal activity or a judicial warrant specific to the time, place, and target of such surveillance.
- (2) Police may not engage in an undercover capacity with groups in non-public places based solely on those groups' participation in First Amendment protected activities.
- (3) Police may not consider an individual's lack of proof of identification or failure to respond to a request for identifying information as probable cause or reasonable suspicion of criminal activity, unless the police have a lawful reason to require identification.
- (4) When attempting to determine the identity of a person appearing to be under eighteen (18) years of age, police or their representatives must accept any statement of that youth that they do not have any form of identification in their possession and may not repeat a request for the same form of identification once a juvenile has stated that they do not have that form of identification.
- (5) Police may not photograph individuals confirmed to be under eighteen (18) years of age or, in the event that age identification cannot be confirmed, individuals who appear to be under eighteen (18) years of age, in accordance with subsection (f)(4), except:
 - a. As part of formal booking procedures;
 - b. To document evidence of a crime;
 - c. When there is reasonable suspicion and/or probable cause to believe that the juvenile is engaged in criminal activity;
 - d. Pursuant to a court order;
 - c. During large scale public events;
 - d. Via video or audio recording equipment used in compliance with subsection (c)(2); or
 - e. For the specific purpose of documenting injury sustained by the juvenile.

However any photographs taken of juveniles shall be destroyed within ninety (90) days, unless otherwise prohibited by law, or unless a specific investigation pertaining to the juvenile remains open or specific charges against the juvenile have been filed and a case remains pending against the juvenile.

- (6) Police may not inquire about an individual's immigration status.
- (7) Any valid identification issued by a foreign government including but not limited to consular identification, foreign driver's license, or passport, shall be considered acceptable identification to the same extent as identification issued by a domestic government agency.
- (8) No police officer shall identify any individual as a member of a gang in any list or database maintained by any law enforcement agency, nor in any reports, memoranda or other document, unless the individual meets the criteria for inclusion on a so-called "gang list" or "gang database." No Police Department official authorized to enter information into the gang

database shall identify any individual as a gang member in written notes unless the individual meet the criteria for inclusion on the so-called "gang list" or "gang database. The list of criteria used to determine inclusion on the "gang list" or "gang database" shall be public information, shall be subject to review by the Providence External Review Authority, and shall not include:

- a. Association with other people identified as gang members or any substantially equivalent factor;
- b. Race;
- c. Location of domicile; nor
- d. Location of encounter.

(9) Gang list/database notification.

- a. Any individual shall have the ability to inquire whether he or she has been included on a "gang list" or "gang database." If such disclosure does not adversely impact imminent law enforcement action, the individual shall be informed if he or she is in the database by written notice no later than ten (10) business days after the inquiry is received. Additionally, the written notice shall explain the right to appeal and the process to appeal the individual's inclusion on the "gang list" or "gang database" as prescribed in this ordinance. The fact that an individual inquired about their inclusion on the "gang list" or "gang database" shall not be considered evidence that the individual is a member or associate of a gang, nor shall it be included in the criteria for inclusion on the "gang list" or "gang database."
- b. Prior to adding any individual under eighteen (18) years of age to the "gang list" or "gang database," the Providence Police Department shall provide written notice, pursuant to the aforementioned policies, of the designation and the basis for the designation by notarized letter delivered via certified mail to the person and their parent or guardian, unless such disclosure would adversely impact imminent law enforcement action,. Additionally, the written notice shall explain the right to appeal and the process to appeal the individual's inclusion on the "gang list" or "gang database" as prescribed in this section.
- c. The police department shall establish policies governing the handling of the requests and notifications set forth in (f)(9)(i) and (ii), and for ensuring the safety of the individuals notified. Such policies shall be public documents, available on the police department website, and subject to review by the Providence External Review Authority.

(10) Gang list/gang database appeals.

- a. The police department shall establish policies allowing for the administrative removal of individuals from the gang list or gang database in the event that an individual and the police department mutually agree that said individual was added to the gang list or gang database in error. Such policies shall be public documents, available on the police department website, and subject to review by the Providence External Review Authority.
- b. Upon request, an individual whose name has been included on a gang list or gang

database may challenge that designation through a formal appeal to the Providence External Review Authority. A hearing shall be scheduled within thirty (30) days at which the police department shall establish that the inclusion of the challenging individual on the gang list or gang database was consistent with the established police department policy. If a simple majority of the Providence External Review Authority (PERA) finds that the inclusion of the challenging individual on the gang list or gang database was not consistent with established police department policy, the challenging individual shall be removed from the gang list or gang database. Such hearings shall not be open meetings and under no circumstances shall evidence or information related to on-going investigations presented at such hearings be shared with any individual beyond the members of PERA, necessary PERA staff, the appellant, and the appellant's legal counsel.

- (11) In the event that an appeal is not successful, a notation will be made in the file and in any transmission of the information concerning that individual, that the person denies the allegation of gang membership or association. The appellant in an unsuccessful appeal shall not be permitted to appeal again for at least one (1) calendar year.
 - (12) No information related to on-going appeals or successfully contested allegations of gang membership or association shall be shared with any third party unless required by law.
 - (13) If an individual has no convictions within a two-year period after their name has been placed on the "gang list," and no new evidence meeting the criteria for inclusion on the "gang list" has been found, the name shall be removed and all related records destroyed. A letter confirming that the individual's name has been removed from the gang list shall be sent to the person at their last known address. However, the two-year period shall not include any time the individual spent incarcerated or serving a suspended sentence.
 - (14) Each year, the Providence Police Department shall produce a report providing the total number of individuals whose names are included on the "gang list," with demographic detail including age, race, ethnicity, and gender, and a total of how many of those individuals have challenged their inclusion on the "gang list."
 - (15) Each year, the Providence Police Department shall engage an independent auditor, selected by PERA, the city solicitor, and the commissioner of public safety, to audit the "gang list," identify any errors, and make recommendations for improving the operations and use the "gang list." A full report of the results of the audit shall be provided to the commissioner of public safety, the chief of police, and to PERA for its review. In the auditor's report, the names of individuals on the "gang list" shall not be included and shall, instead, be replaced with unique identifying numbers. The identity of the auditor shall remain confidential.
- (g) *Language access for Limited English Proficient (LEP) individuals.*
- (1) The police department shall maintain a language access hotline to connect police officials in the field with qualified interpreters in a timely manner. Officers who wish to question an LEP individual for any reason and are not fluent in a language spoken proficiently by that individual, shall not question that individual without the aid of the aforementioned language access hotline or without a qualified interpreter is present, except in emergency situations.

Police shall not use family members, friends or bystanders as interpreters, except when the aforementioned language access hotline is unavailable or in emergency situations and/or for the purposes of explaining to an individual that they are securing an interpreter or the language access hotline.

- (2) The police department shall establish and maintain policies for the use of the language access hotline, setting standards for determining language fluency among officers, and clearly defining emergency situations. Such policies shall be public documents, available on the police department website, and subject to review by the Providence External Review Authority.
 - (3) All custodial interrogations in police stations or substations involving LEP individuals must be recorded and such recording shall be made available to the interrogated individual and/or their attorneys. Whenever an officer equipped with a body camera conducts a custodial interrogation of an LEP individual in the field, that interrogation shall be recorded. Recordings made pursuant to this subsection shall be made available to the interrogated individuals and/or their attorneys, unless doing so would impede an ongoing investigation.
 - (4) Miranda Warnings, and all other vital written materials, will be available in the five (5) most commonly spoken languages in Providence, according to the most recent Census data. In the case of a language into which forms have not been translated and in the case of illiteracy, forms will be read to a suspect or witness in their primary language using the contracted interpretation services.
 - (5) At each police building with direct public access, signs shall be posted in the five (5) most commonly spoken languages in Providence, according to the most recent Census data, at each public access point or lobby stating that a language access hotline will be provided free of charge to LEP individuals.
- (h) *Collaboration with other law enforcement agencies .*
- (1) Any formal agreements addressing cooperation and mutual assistance between Providence Police and other law enforcement agencies shall be deemed public documents, subject to the Access to Public Records Act, R.I.G.L. § 38-2-1 et seq., and posted on the city's website unless it adversely impacts investigatory activities.
 - (2) A law enforcement officer shall not detain an individual on the basis of a request from another agency or pursuant to an administrative warrant, after the individual is eligible for release from custody, unless the agency has a criminal warrant, issued by a judicial officer, for the individual, or the detention is otherwise constitutional.
 - (3) Providence Police are not permitted to comply with requests by other agencies to support or assist in operations conducted solely for the purpose of enforcing federal civil immigration law, including but not limited to requests to establish traffic perimeters related solely to immigration enforcement.
 - (4) Nothing in this chapter prohibits or restricts any official from sending to, or receiving from federal immigration authorities, information regarding the citizenship or immigration status, lawful or unlawful, of an individual pursuant to Sections 1373 and 1644 of Title 8 of the United States Code.

- (5) All joint activities undertaken between Providence Police Department and other law enforcement agencies not governed by formal agreements as covered in this section shall publicly report as soon as practicable upon completion of the operation.
 - (6) The Providence Police Department shall abide by the provisions of this ordinance at all times, including when working in collaboration with outside law enforcement agencies.
- (i) *Accountability and enforcement*.
- (1) Generally.
 - a. When conducting a stop or search, a police officer must provide their federal identification number.
 - b. Any subject of a stop or search may ask an on-duty law enforcement officer for a business card containing the officer's federal identification number. The officer must comply with the request, when practicable and consistent with ensuring officer safety and the safety of others. Such requests shall not be deemed reasonable suspicion of criminal activity. When in uniform, Providence Police officers must wear their federal identification number on their uniform.
 - (2) An individual subjected to any violation of this ordinance, other than a violation of subsection (i)(5), may file a civil action for injunctive and declaratory relief, as well as compensatory damages against:
 - a. Any governmental body that employs any law enforcement officer who has engaged, is engaging, or continues to engage in violations of any section of this ordinance; and
 - b. Any law enforcement officer who has engaged, is engaging, or continues to engage in knowing and willful violations of any section of this ordinance.
 - (3) Preservation of rights. This section shall be in addition to all rights, procedures, and remedies available under the United States Constitution, Section 1983 of Title 42 of the United States Code, the Constitution of the State of Rhode Island and all other federal law, state law, municipal law and all preexisting civil remedies, including monetary damages, created by statute, ordinance, regulation or common law.
 - (4) The chief of police shall prepare and make available on the city's website, as well as to the Providence External Review Authority, the city council and the public, a quarterly report commencing with the city's fiscal year containing the following information:
 - a. Compilation of the data collected pursuant to subsection (c)(1), providing at a minimum statistical descriptions of individuals stopped, results of the stop, analyzed by direct and cross-tabulation of race, ethnicity, gender, and age (as perceived by the officer initiating the stop).
 - b. Maps or other graphic representations providing approximate geographical locations of aggregate stops.
 - c. Complaints received by the office of professional responsibility involving alleged violations of one (1) or more provisions of this section.
 - d. A summary of all pending civil and criminal litigation against the Providence Police

Department or any of its employees, or the City of Providence, alleging violations of any provision of this section.

- e. Copies of any new policies or revisions to existing policies enacted during the report period.
- (5) The Providence External Review Authority, upon review of all data described in subsection (i)(5) (i), may recommend diversionary reinvestments that would, if implemented, reallocate city funding from the Police Department Budget as a whole, and from the funds specifically allocated to the office of public safety commissioner, to municipal recreation, youth programming and employment opportunities.
 - a. A written description of these recommendations shall be submitted to the mayor and the city council no later than the last day of January.
 - b. The mayor and or the public safety commissioner shall provide a written response to the recommendations no later than twenty (20) days after receiving them.
 - c. The finance committee of the city council, or any other committee within the city council most responsible for preparing a budget proposal to be considered by the council as a whole, shall review and respond to the recommendations during its budget deliberations. It shall conduct a public hearing at which members of the public may present their responses to the recommendations. For any city department potentially affected by a diversionary reinvestment, the director or their designee must attend the public hearing described in this subsection.
 - (6) The Providence External Review Authority shall be authorized to review proposed labor agreements between the City of Providence and any labor union representing sworn officers employed by the city at the time tentative signed agreements are submitted to the city council, and to make recommendations to either or both parties negotiating the labor contract.
 - (7) The Providence External Review Authority shall be specifically authorized to accept complaints relating to any violation of the Community Safety Act, as well as complaints about improper or inappropriate use of canines.
- (j) *[Evidence suppression.]* No provision or violation of this ordinance shall be used as an independent basis to suppress evidence in a criminal proceeding.
 - (k) *[Funding.]* Appropriate funding shall be made available to implement the provisions of this chapter.
 - (l) *Severability.* The provisions of this section shall be severable. If any phrase, clause, sentence or provision of this section is declared by a court of competent jurisdiction to be invalid, the validity of the remainder of the section and its applicability to any other agency, person or circumstances shall not be affected.
 - (m) *[Implementation report.]* No later than six (6) months from the enactment of this section, the commissioner of public safety and the chairperson of PERA, shall issue to the city council a report on the implementation of this section.

Exhibit C - 2004 Memo, Colonel Esserman

PROVIDENCE POLICE DEPARTMENT
 HEADQUARTERS
 Colonel Dean M. Esserman
 CHIEF OF POLICE



TYPE OF ORDER	NUMBER/SERIES	EFFECTIVE DATE	ISSUE DATE
Memorandum	#07 Series 2004	IMMEDIATELY	03/22/04
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
Gang Database			
REFERENCE		RE-EVALUATION DATE	
SUBJECT AREA		DISTRIBUTION	
		All Personnel	

The Department has created a "Gang Database" which is now operational. This database currently has over five hundred names and approximately fifty gangs. To access this database go to [REDACTED]

[REDACTED] This is a READ ONLY database.

The Department's goal is to significantly increase this database through the vast amount of information that is possessed by the officers. Gang names and members may be added to this database by completing a Gang member entry form. These forms will be available through Detectives Oscar Perez and Michael Wheeler of the Gang Unit, Youth Services Bureau. When completed, these forms should be forwarded to the Narcotics, and Organized Crime Bureau for entry into the database.

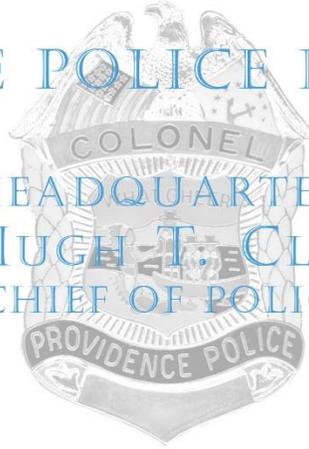
APPROVED:

DEAN M. ESSERMAN
 COLONEL
 CHIEF OF POLICE

**Exhibit D - General Order 360.10 Gang Member
Designation December 10th, 2017**

PROVIDENCE POLICE DEPARTMENT

HEADQUARTERS
 COLONEL HUGH T. CLEMENTS, JR.
 CHIEF OF POLICE



TYPE OF ORDER	NUMBER/SERIES	ISSUE DATE	EFFECTIVE DATE
General Order	360.10	12/22/2017	1/1/2018
SUBJECT TITLE		PREVIOUSLY ISSUED DATES	
Intelligence Assessment Database		N/A	
REFERENCE		RE-EVALUATION DATE	
N/A		12/22/2018	
SUBJECT AREA		DISTRIBUTION	
Law Enforcement Operations		All Sworn Personnel	

PURPOSE

The purpose of this policy is to establish the creation of the Providence Police Department's Intelligence Assessment Database and to define parameters pertaining to its structure and use.

POLICY

It is the policy of the Providence Police Department to implement and maintain an intelligence-driven database system that provides: (1) the ability to identify and differentiate between gang members and non-gang members; (2) information that can be used to devise effective interdiction strategies and afford protections to the community from criminal activity, including gang-related crimes and violence; and (3) fair, unbiased, and constitutionally sound methods of gang member designation and designation appeal procedures that adhere to all applicable Providence City Ordinances and state and federal laws.

DISCUSSION

The mission of the Providence Police Department Violence Crime Task Force (VCTF) is to proactively reduce gun violence, particularly concentrating on individuals affiliated with gangs or violent criminal behavior. The VCTF 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. VCTF works collaboratively with community partners and other stakeholders to garner information on illegal firearms and related violence. Officers aim to prevent ongoing

Case 1:19-cv-00378 Document 1-1 Filed 07/16/19 Page 23 of 39 PageID #: 37
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 VCTF makes contact are referred to social service agencies and are offered a variety of opportunities.

For the purpose of this General Order, the following definitions shall apply:

Criminal Street Gang (i.e. "Gang"): An ongoing organization, association, or group of three (3) or more persons, whether formal or informal, having as one of its primary activities the commission of criminal or delinquent acts; having an identifiable name or common identifiable signs, colors, or symbols; and whose members individually or collectively engage in, or have engaged in, a pattern of criminal gang activity.

Gang Member: Any person, whether a juvenile or an adult, who has attained a minimum of ten (10) points based upon the fourteen (14) weighted criteria of the Department's gang member verification system.

Intelligence Assessment Database: A database maintained by the VCTF that includes gang members and other subjects deemed appropriate for entry into the database for intelligence purposes.

Intelligence: A collection of information to be used for investigative purposes.

Gang Member Verification Report: A printable summary of the criteria used to verify an individual as a gang member.

PROCEDURE

I. GENERALLY

- A. No police officer shall identify any individual as a member of a gang in any list or database maintained by the Department, nor in any reports, memoranda or other document, unless the individual meets the criteria for designation as a gang member. No Police Department official authorized to enter information into the Intelligence Assessment Database ("the database") shall identify any individual as a gang member in written notes unless the individual meets the criteria for designation as a gang member. The list of criteria used to determine gang membership shall be public information, and shall be subject to review by the Providence External Review Authority (PERA).

II. GANG MEMBER DESIGNATION

- A. The Department uses a gang member verification system utilizing fourteen (14) weighted criteria to determine when an individual will be considered a gang member. An individual that does not have a minimum of ten (10) points using the fourteen (14) weighted criteria will not be designated as a gang member within the database.

- B. The following list represents the fourteen (14) weighted criteria that shall be used to establish an individual's designation as a gang member within the database:
1. Prior gang member validation by a law enforcement agency (9 points).
 2. Named in gang-related information received from an unaffiliated law enforcement agency (2 points).
 3. Self-admission (10 points).
 4. Use and/or possession of gang group paraphernalia or identifiers (4 points).
 5. Appearance in gang group-related photographs (2 points).
 6. Bearing known gang group tattoo or marking (8 points).
 7. Named in gang-related information from reliable, confidential informants (6 points).
 8. Named in gang-related information from an anonymous informant or tipster (1 point).
 9. Possession of gang-related documents (4 points).
 10. Named in gang-related documents as a gang member (8 points).
 11. Contributor in gang publications (8 points).
 12. Named in court and investigative gang-related documents (9 points).
 13. Documented as having had three (3) or more contacts with known gang members and/or involvements in any gang activity, to include information generated from Field Intelligence Reports (3 points).
 14. Information developed during investigation(s) involving gang activity (5 points).
- C. Any individual who believes that they are designated as a gang member within the database may make a direct inquiry at the Providence Public Safety Complex with the Office of Professional Responsibility. If such disclosure does not adversely impact imminent law enforcement action, the individual shall be informed of whether or not he/she is designated as a gang member by written notice no later than ten (10) business days after the inquiry is received. Additionally, the written notice shall explain the right to appeal and the process by which to appeal the individual's designation as a gang member. The fact that an individual inquired about his/her designation shall not constitute evidence that the individual is a gang member, nor shall it be included in the criteria for the individual's designation as a gang member.
- D. Prior to designating any individual under eighteen (18) years of age as a gang member, the Providence Police Department shall provide written notice of the designation and the basis for the designation by notarized letter, delivered via certified mail, to the individual and his/her parent(s) or legal guardian(s), unless such disclosure would adversely impact imminent law enforcement action. Additionally, the written notice shall explain the right to appeal and the process to appeal the individual's designation as a gang member.

III. SUBMISSIONS TO THE INTELLIGENCE ASSESSMENT DATABASE

- A. Officers are able to submit an individual for consideration for admission into the database. All prospective gang member designation submissions shall include documentation to support the individual's entry into the database based upon the Department's gang member verification system. This documentation may include, but is not limited to, incident reports, intelligence reports, and information gathered from social media. Submissions may be made to members of the VCTF, with final approval for database entry made by the Commanding Officer of the VCTF prior to the entry of the individual into the database.

IV. ACCESSING THE INTELLIGENCE ASSESSMENT DATABASE

- A. The Department will provide access to the database for each sworn officer and authorized user. All officers/authorized users must complete a User Agreement before being granted access to the database. Officers/authorized users must have a legitimate law enforcement purpose, for accessing the database, such as an ongoing investigation or in support of prosecutorial efforts.
- B. Officers not assigned to the VCTF will have the following access permissions:
1. READ all database entries within the system.
 2. SEARCH all database entries within the system.
- C. Additional access permissions may be granted at the discretion of the Commanding Officer of the Investigative Division.

V. DISSEMINATION OF INTELLIGENCE ASSESSMENT DATABASE INFORMATION

- A. All data contained in the database is **law enforcement sensitive**. All court ordered, defense requested, or public requested production of information contained in the database shall be directed to the City of Providence Law Department.

VI. REVIEW OF GANG MEMBER DESIGNATION ENTRIES

- A. The Commander of the Investigative Division or his/her designee, in collaboration with the Commander of the VCTF or his/her designee, shall be responsible for ensuring that database files are maintained in accordance with the goals and objectives set forth in this directive.
- B. If an individual has no convictions within a two-year period after he/she has been designated as a gang member, and no new evidence or documentation meeting the criteria for designation as a gang member has been presented, the individual shall no longer be designated as a gang member and all related records destroyed at the individual's personal request. A letter confirming that the individual is no longer designated as a gang member shall be sent to the individual at his/her last known

address. Notwithstanding the above, the two-year period shall not include any time that the individual spent incarcerated or serving a suspended sentence.

VII. GANG MEMBER DESIGNATION APPEALS

- A. Any individual who is designated as a gang member may appeal his/her designation by filing a civilian complaint with the Office of Professional Responsibility (OPR). A joint investigation of the complaint by OPR and the Commanding Officer of the VCTF that includes an analysis of the individual's Gang Member Verification Report shall be conducted in accordance with the procedures pertaining to civilian complaint investigations.
- B. An individual who is designated as a gang member may also challenge that designation via a formal appeals process to PERA, in accordance with all applicable Providence City Ordinances and state and federal laws.
- C. In the event that an appeal is not successful, a notation will be made in the individual's database record, and in any transmission of the information concerning that individual, documenting that the individual disagrees with their designation as a gang member. The appellant in an unsuccessful appeal shall not be permitted to appeal their designation as a gang member again for at least one (1) calendar year.
- D. No information related to on-going appeals or successfully contested appeals of gang member designations shall be shared with any third party unless required by law.

VIII. PROVISIONS

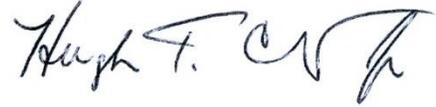
- A. Each year, the Providence Police Department shall produce a report providing the total number of individuals who are designated as gang members, along with demographic detail including age, race, ethnicity, and gender and a total of how many of those individuals have challenged their respective designations as gang members.
- B. Each year, the Providence Police Department shall engage an independent auditor, selected by PERA, the City Solicitor, and the Commissioner of Public Safety, to audit the Intelligence Assessment Database, identify any errors, and make recommendations for improving the operations and use of the database. A full report of the results of the audit shall be provided to the Commissioner of Public Safety, the Chief of Police, and to PERA for its review. In the auditor's report, the names of individuals who have been designated as gang members shall not be included, and shall, instead, be replaced with unique identifying numbers. The identity of the auditor shall remain confidential.

APPROVED:

Handwritten signature of Steven M. Paré in black ink.

STEVEN M. PARÉ
COMMISSIONER
DEPARTMENT OF PUBLIC SAFETY

APPROVED:

Handwritten signature of Hugh T. Clements, Jr. in black ink.

HUGH T. CLEMENTS, JR.
COLONEL
CHIEF OF POLICE

**Exhibit E - Letter from PrYSM to Solicitor Jeff
Dana, January 3rd, 2018**



January 3, 2018

Jeffrey Dana
City Solicitor
Providence Law Department
444 Westminster Street, Suite 220
Providence, RI 02903

VIA EMAIL AND HAND DELIVERED

Dear Solicitor Dana:

This letter is to bring to your attention that the newly created **Providence Police Department General Order 360.10, "Intelligence Assessment Database," issued 12/22/2017, blatantly and unequivocally violates Section 18 ½ – 4 of the Code of Ordinances of the City of Providence** (titled Providence Community-Police Relations Act, colloquially known as the "Community Safety Act," hereafter referred to as the "CSA").

As you are no doubt aware, §(f)(8)(1) of the CSA *expressly* forbids the use of "[a]ssociation with other people identified as gang members or any substantially equivalent factor" from the list of criteria used to determine inclusion on the so-called gang database.¹

It was with great shock and dismay that we discovered that Section II.B. of this newly created City policy violates the CSA in at least six (6) and as many as nine (9) of the fourteen (14) "weighted criteria that shall be used to establish an individual's designation as a gang member within the database." The most egregious of these illegal criteria, II.B.13. suggests that the drafters of the policy chose to completely ignore established law:

"Documented as having had three (3) or more contacts with known gang members and/or involvements (sic) in any gang activity, to include information generated from Field Intelligence Reports."

Several additional criteria could easily implicate the illegal consideration of association with other

¹ While General Order 360.10 references an "Intelligence Assessment Database," the policy goals outlined as well as other language in the policy that does accurately reflect the text and meaning of the CSA indicate that the "Intelligence Assessment Database" and the "gang list" or "gang database" referenced in the ordinance are one and the same.

people identified as gang members, in that they rely on identification by individuals, whether informants (nos. 7, 8), law enforcement agencies (nos. 1, 2, 12, and 14) or simply as a consequence of First Amendment protected association or expression (no. 5 – appearance in photographs; no. 11 – contributor in publications).

Aside from broader Constitutional concerns, many of which our partner organizations and community members outlined during the discussions that led to the adoption of the CSA, City law is now crystal clear in forbidding the use of association to allege gang membership.

After more than five years of hard work conceiving, gestating, and finally bringing the CSA to fruition, we are not willing to see one of its most important provisions eliminated by administrative fiat, whether intentionally or not. We are charging you, as legal counsel to the City administration to **immediately** inform the Mayor that this policy is illegal, and that he should suspend it at once, while work begins to draft a new policy that complies with the law of Our City. Should you wish, we are available to assist you in that endeavor; however please be aware that we will use any and all means available to ensure that the City does not begin the new year by trampling on one of the most important pieces of legislation produced in decades.

Sincerely,

/s/Shannah Kurland

Shannah Kurland, Esq.

Legal Director, Community Defense Project

Providence Youth Student Movement

cc Mayor Jorge Elorza
... other interested parties

**Exhibit F - Letter of response from Dana to
PrYSM, January 5th, 2018**



CITY OF PROVIDENCE

Jorge O. Elorza, Mayor

January 5, 2018

Shannah Kurland, Esq.
Legal Director, Community Defense Project
Providence Youth Student Movement

RE: January 3, 2018 letter

Dear Ms. Kurland:

I have reviewed the letter you sent to me on January 3, 2018 in which you advised that you wished to bring to my attention the existence of a General Order of the Providence Police Department which you allege violates Section 18 ½ of the Code of Ordinances of the City of Providence. More specifically, you expressed your concern that there is a General Order which you claim violates the section of that Ordinance which addresses policy related to the maintenance of a so-called gang database. I would like to inform you that, as of today, the Providence Police Department General Order 360.10 has been rescinded. Chief Clements and members of the Command Staff of the Providence Police Department, Commissioner Pare, and attorneys from the Law Department are working together to draft a revised Order. Prior to the adoption and implementation of such a revised Order, the Providence Police Department will not be maintaining a so-called gang database.

Please feel free to follow up with me with any further concerns you may have on this matter.

Very truly yours,

Jeff Dana
Providence City Solicitor

Enclosure

CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903

401 680 5333 ph | 401 680 5520 fax

www.providenceri.com

**Exhibit G - Letter from PERA Executive Director to
Colonel Clements, June 10th, 2019**

PROVIDENCE EXTERNAL REVIEW AUTHORITY

807 Broad Street Providence, Rhode Island 02907

Phone: 401-256-3941 • E-mail: PERA@ProvidenceRI.gov

June 10, 2019

Colonel Hugh T. Clements, *Chief of Police*
Providence Police Department
325 Washington Street
Providence, RI 02903

Re: Re-Evaluation of Intelligence Assessment Database Policy No. 360.10

Dear Colonel Clements:

The PERA board has recently learned of the reimplementation of Policy No. 360.10 by the Providence Police Department. This particular policy was subject to review after the PCPRA went into effect. Indeed, in a letter dated January 5, 2018, City Solicitor Jeff Dana declared the policy *rescinded* effective that date for failure to comply with the PCPRA.

It has come to my attention that Policy No. 360.10 was implemented again effective December 10, 2018 and is scheduled for reevaluation on today, June 10, 2019.

I am writing you today to respectfully request that Policy No. 360.10 again be *rescinded* until the PERA board has had an opportunity to review and make recommendations, as required by law. See PCPRA *subsection* (f)(8) and (f)(9)(iii).

I am happy to meet with you and any members from your department in the coming days and weeks to discuss how PERA can be helpful in terms of implementing a new policy that complies with the law.

Thank you,

/s/ Jose F. Batista
Jose F. Batista
PERA, *Executive Director*

cc: Commissioner Steven Pare
Commander Thomas Verdi
Major Robert Lepre
Major Oscar Perez
Captain Alyssa DeAndrade
City Solicitor, Jeff Dana

**Exhibit H - Letter from PrYSM to Dana, June 12th,
2019**

PROVIDENCE YOUTH STUDENT MOVEMENT
669 ELMWOOD AVENUE BOX 16, SUITE B7 • PROVIDENCE, RI 02907 • 401.383.7450 • WWW.PRYSM.US

June 12, 2019

Jeffrey Dana
City Solicitor
Providence Law Department
444 Westminster Street, Suite 220
Providence, RI 02903

VIA EMAIL AND U.S. POSTAL SERVICE

Dear Solicitor Dana:

This letter is to bring to your attention that the revised **Providence Police Department General Order 360.10, “Intelligence Assessment Database,”** issued 12/10/2018, **STILL blatantly and unequivocally violates Section 18 ½ – 4 of the Code of Ordinances of the City of Providence** (titled Providence Community-Police Relations Act, colloquially known as the “Community Safety Act,” hereafter referred to as the “CSA”).

As you are no doubt aware, §(f)(8)(1) of the CSA *expressly* forbids the use of “[a]ssociation with other people identified as gang members or any substantially equivalent factor” from the list of criteria used to determine inclusion on the so-called gang database.¹

It was with great shock and dismay that we discovered – once again, on our own initiative with no outreach whatsoever from the Law Department or any other City Department - that Section II.B. of **this newly revised City policy violates the CSA in at least nine (9) and as many as eleven (11) of the fifteen (15) “weighted criteria that shall be used to establish an individual's designation as a gang member within the database.”**

Before addressing in more detail the fatal flaws in the 12/22/2017 iteration, which we brought to your attention in a letter dated January 3, 2018, we must point out that this abomination is a direct result of the City's unwillingness to even engage with the community in drafting a policy.

PrYSM and our community partners are the people who actually drafted the legislation which this policy so thoroughly violates. Not only has the Police Department issued this current 12/10/2018 iteration without any pretense of community consultation, but this is at least the *second* version adopted since we brought the errors to your attention. A previous version, dated 6/10/18 was also adopted without any efforts to engage or communicate with us, the drafters of the

¹ While General Order 360.10 references an “Intelligence Assessment Database,” the policy goals outlined as well as other language in the policy that does accurately reflect the text and meaning of the CSA indicate that the “Intelligence Assessment Database” and the “gang list” or “gang database” referenced in the ordinance are one and the same.

legislation. As a result of this effective exclusion of community input, the current policy is riddled with errors. One example of an illegal criterion reads:

12. Named as a gang member in court and investigative gang-related documents that meet the general criterion principals (sic) for intelligence assessment databases (9 points).

As written, this measure is illegal. The “court and investigative documents” on which the Police Department intends to rely do not protect against “[a]ssociation with other people identified as gang members,” and potentially provide a not-too subtle work-around of that prohibition by adding a layer that could well be based on the illegal criterion of association. It was expressly this type of problem that the drafter sought to avoid by *also* prohibiting “the use of any substantially equivalent factor” when it outlawed the use of association as a criteria.

Several additional criteria could easily implicate the illegal consideration of association with other people identified as gang members, in that they rely on identification by individuals, whether informants (nos. 7, 8), law enforcement agencies (nos. 1, 2, 12, 14, and 15) or simply as a consequence of First Amendment protected association or expression (no. 5 – appearance in photographs; no. 11 – contributor in publications).

Had the Police or Law Department taken fifteen minutes to consult with us before finalizing the policy, we could have suggested simple language to resolve the illegality of this and other criteria.

Unfortunately, the City chose to ignore us rather than take advantage of our willingness to provide free technical assistance, and effectively recycled its previous illegal policy.

Please rescind the policy by Juneteenth (June 19) to avoid the need for further action, including potential litigation. Thank you for your prompt attention to this matter.

Sincerely,

/s/Shannah Kurland
Shannah Kurland, Esq.
Legal Director, Community Defense Project
Providence Youth Student Movement

/s/ Vanessa Flores Maldonado
Vanessa Flores Maldonado
CSA Campaign Coordinator
Providence Youth Student Movement

cc Jose Batista, Executive Director, Providence External Review Authority
PERA Board Members
City Council Members
Mayor Jorge Elorza
... other interested parties

**Exhibit I - Letter from Dana to Attorney Kurland and
Ms. Flores-Maldonado, June 18th, 2019**



CITY OF PROVIDENCE

Jorge O. Elorza, Mayor

SENT VIA EMAIL ONLY

June 18, 2019

Shannah Kurland, Esq.
Vanessa Flores Maldonado
Providence Youth Student Movement
669 Elmwood Avenue
Box 16, Suite B7
Providence, RI 02907

RE: Providence Police General Order 360.10

Dear Attorney Kurland & Ms. Maldonado:

Thank you once again for your letter dated June 12, 2019 outlining your concerns with the Providence Police General Order 360.10. This correspondence is to advise you that we are reviewing the order in light of your concerns. However, we will be unable to complete this process by June 19, 2019.

Thank you for your cooperation in this matter.

Sincerely,

Jeffrey Dana
City Solicitor

CITY SOLICITOR'S OFFICE

444 Westminster Street, Suite 220, Providence, Rhode Island 02903

401 680 5333 ph | 401 680 5520 fax

www.providenceri.com