

**IN THE CIRCUIT COURT OF MARYLAND
FOR PRINCE GEORGE’S COUNTY**

CHICAGO JUSTICE PROJECT,
105 W. Madison Street, Suite 1500
Chicago, IL 60602

Plaintiff,

v.

PRINCE GEORGE’S COUNTY
805 Brightseat Road
Landover, MD 20785

Defendant.

Case No.: _____

COMPLAINT

Plaintiff Chicago Justice Project (“CJP”), by and through undersigned counsel, hereby brings this action against Prince George’s County (“PG County”) (“Defendant”).

NATURE OF THE ACTION

1. This is an action for injunctive and other appropriate relief seeking disclosure and release of records Defendant improperly withheld from Plaintiff in violation of the Maryland Public Information Act (“MPIA”), Md. Code, General Provisions § 4-101, et seq.

2. In support of this complaint, Plaintiff states as follows: Prince George’s Police Department (“PGPD”) is a leader in the illegal mass surveillance of minority residents in the region. PGPD strips innocent residents of their civil liberties by funding and contributing to a massive gang database that secretly tracks thousands of minority and other residents without justification. Gang databases are a part of long-standing practice by police to criminalize various associations of people, although there is evidence that such databases are ineffective deterrents to organized crime.¹

3. Although gang databases have been shown to be discriminatory and ineffective², PGPD participates in gang databases but permits no transparency into its actions.

4. When CJP sought records on PGPD’s practices related to gang databases, PG County, which processes MPIA requests for police records, took 206 days to respond; then failed to produce a single record despite asserting that they possess thousands of responsive records; and provided no basis for withholding the information.

5. CJP is a non-profit organization dedicated to pursuing data transparency in local justice systems across the country. CJP’s mission is to access and analyze data from various justice systems to promote evidence-based reforms that will better serve the needs of local communities.³

¹ Surveillance Technology Oversight Project (STOP), *Guilt By Association: How Police Databases Punish Black and Latinx Youth* (Sept. 5, 2023), <https://www.stopspying.org/guilt-by-association>.

² Washington Lawyers’ Committee for Civil Rights and Urban Affairs, *Targeted, Labeled, Criminalized: Early Findings on the District of Columbia’s Gang Database* 10 (Jan. 2024), <https://www.washlaw.org/wp-content/uploads/2024/01/Edited-TARGETED%5EJ-LABELED%5EJ-CRIMINALIZED-Final-Conforming-Edits-01-11-24.pdf>.

³ Chicago Justice Project, *About Us*, <https://chicagojustice.org/about-us/> (last visited Mar. 4, 2024).

CJP's work currently focuses on criminal legal systems in Illinois, the District of Columbia, Virginia, and Maryland.

6. In December 2020, NBC4 and Telemundo 44 published a report asserting that PGPD is falsely labeling people as gang members in the Washington Baltimore High Intensity Drug Trafficking Area Gang Intelligence System, known as GangNet, and that of the 7,700 individuals included in the Database, over three-fourths are minority people. *See Exhibit A*, which is incorporated into this Complaint by reference.

7. In line with its mission, CJP submitted a Maryland Public Information Act ("MPIA") request (the "Request") to PGPD on September 9, 2021. *See Exhibit B*, which is incorporated into this Complaint by reference. *See* Md. Code, General Provisions § 4-101 *et seq.* (2014). The Request sought documents relating to any gang databases that the PGPD maintains or may have access to, including GangNet, which contain information about a person's actual or suspected gang affiliation as well as records regarding the supervision, use, and maintenance of the database.

8. PG County refused to produce the requested documents despite admitting it possesses "thousands of pages of potentially responsive documents." *See Exhibit C*, which is incorporated into this Complaint by reference.

9. PG County failed to cite to a single exemption that overcame or negated their obligation to disclose the documents. *See Exhibit D*, which is incorporated into this Complaint by reference.

10. PG County is willfully disregarding its obligation to produce the requested records under the MPIA.

11. Defendant's willful misconduct has persisted for over two years, well outside the 30-day response deadline required by statute. *See* Md. Code, General Provisions § 4-203(a). As a result, CJP is forced to bring this action for injunctive and declaratory relief pursuant to the MPIA to compel production of public records made or received by PG County that are responsive to CJP's Request.

12. CJP requests a hearing on this issue as earliest as practicable as set forth in Md. Code, General Provisions § 4-362 ("a proceeding under this section . . . shall (i) take precedence on the docket; (ii) be heard at the earliest practicable date; and (iii) be expedited in every way.") *Id.* § 4-362(c)(1).

JURISDICTION AND VENUE

13. The Court has personal jurisdiction over the Defendant under Md. Code, Cts. & Jud. Proc. § 6-102.

14. The Court has subject matter jurisdiction under Md. Code, Cts. & Jud. Proc. § 1-501 because Plaintiff has not been provided a copy of a public record as requested under Md. Code, GP § 4-362(a)(1).

15. Venue in this Court is proper because the public records in question are located in Prince George's County. Md. Code, General Provisions § 4-362(a)(3).

PARTIES

16. Plaintiff Chicago Justice Project is a not-for-profit corporation organized under the laws of the State of Illinois. It is dedicated to pursuing data transparency in local justice systems across the country. CJP uses information obtained from public records to conduct empirical research to support public safety and civil rights advocacy, develop analytical data models to

support public policy recommendations, and assist lawmakers in drafting and revising bills and regulations related to these issues.

17. Defendant Prince George’s County is a political subdivision of the State of Maryland and is subject to the MPIA. Md. Code, General Provisions § 4-101(i).

18. Prince George’s County Police Department is a unit or an instrumentality of Prince George’s County and is therefore subject to the MPIA. *See* P.G. County Muni. Code § 18-134.

FACTUAL ALLEGATIONS

I. PGPD’s Gang Database

19. There are 33 High Intensity Drug Trafficking Area (HIDTA) programs throughout the United States. These programs create partnerships between local, state and federal law enforcement, which share, collect and disseminate information on a variety of different law enforcement priorities, including gangs.⁴

20. The Washington/Baltimore HIDTA maintains the Gang Intelligence System, known as GangNet. The Prince George’s Police Department (“PGPD”) is part of the Washington/Baltimore HIDTA program.

21. As a member of the Washington/Baltimore HIDTA program, PGPD is one of over 100 participating law enforcement agencies that share information to track the activities, affiliations, identities, and other personal details of thousands of Maryland, Virginia, and DC residents.⁵

⁴ Washington/Baltimore High Intensity Drug Trafficking Area (HIDTA) “Law Enforcement Initiatives” (Nov. 15, 2023), <https://www.hidta.org/initiatives/law-enforcement/>.

⁵ Office of National Drug Control Policy, *High Intensity Drug Trafficking Areas Program 2021 Report to Congress* 175-80 (2021) <https://www.whitehouse.gov/wp-content/uploads/2021/08/2021-HIDTA-Annual-Congressional-Report-FINAL-FOR-TRANSMISSION.pdf>.

22. As described above, PGPD and other law enforcement agencies' participation in gang databases has come under elevated public scrutiny by NBC4, Telemundo 44, and The Washington Post⁶ in recent years due to the severe consequences that often result from inclusion on such databases. *See Exhibit A.*

23. Every year, minority individuals make up more than 80% of entries in the GangNet database. *Id.*

24. PGPD has been accessing and entering information into GangNet consistently since at least 2019. *See Exhibit E.*

25. In fact, PGPD's entries into GangNet were over 12% of all Maryland entries in 2020 and 2021. *See Exhibits F-G.* Similarly, in 2019, PGPD entries comprised nearly 10% of the entries in the GangNet database. *See Exhibit E.*

26. As described above, PGPD's use of GangNet has been a subject of public debate and controversy in recent years.

27. As one example, articles by NBC4 and Telemundo 44 report that law enforcement falsely label innocent people as gang members in the GangNet database for something as innocent as "stopping to talk with someone who is affiliated [with a gang]." *See Exhibit A.*

28. PGPD practices further exacerbate the continued infringement of the civil liberties of minority and other individuals. As a former member of the PGPD Gang Unit explains in the NBC4 and Telemundo reporting, the Gang Unit evaluates gang unit officers based on how many people they add to GangNet. *Id.* This evaluation system creates incentives for officers to enter

⁶ Justin Jouvenal, *Virginia police task force drops use of controversial gang database*, The Washington Post (Jan. 28, 2021), https://www.washingtonpost.com/local/public-safety/gangnet-database-controversy/2021/01/27/0decb3d4-5bfd-11eb-b8bd-ee36b1cd18bf_story.html.

misleading or incorrect information into GangNet, rewarding officers not for accurate assessment of gang threats, but instead for the number of individuals added to the GangNet database. As a result, the former officer noted, innocent people end up falsely labeled as a gang member “for a stat.” He also added that PGPD officers added some people to GangNet simply because they were “in the wrong spot at the wrong time.” *Id.*

29. Mere inclusion in the GangNet database can subject an individual to a severe loss of rights and liberties.

30. For example, the same reporting describes the experience of one immigrant falsely listed as a gang member. He was included in the GangNet database despite having no prior criminal record in the United States or his home country, and despite the fact that PGPD never charged him with a crime or even provided a reason for his arrest. Because of PGPD’s misidentification of him as a gang member, ICE detained him for eight months until he was able to prove that he was not a gang member.

31. Other jurisdictions have acknowledged the issues associated with gang databases, including unreliability, racial disparities, and lack of transparency and have stopped using them or are currently considering banning them. *See Ortiz v. Garland*, 23 F.4th 1, 25 (1st Cir.) (2022).

II. CJP’s FOIA Request

32. CJP submitted an MPIA request to PGPD on September 9, 2021 (the “Request”) to investigate PGPD’s use of gang databases, whether it maintains its own database, and whether it participates in other third-party databases. **Exhibit B.**

33. The Request asked for records sufficient to identify any database that PGPD maintains or has access to and contains data related to any person’s actual or supposed gang

affiliation as well as related records regarding the supervision, use, and maintenance of the database. *Id.*

34. CJP also requested that the fees associated with searching and copying the requested records be waived pursuant to GP § 4-206(e), because such waiver would be in the public interest. *Id.*

35. By statute, PGPD was required to respond to CJP's MPIA Request within 30 days. Md. Code, General Provisions § 4-203(a).

36. PGPD did not respond to the Request within 30 days.

37. On November 23, 2021, after the 30 day deadline had elapsed, CJP sent a follow-up email to James Sandacz, PGPD Custodian of Records, requesting a status update on its MPIA Request. *See Exhibit H*, incorporated herein by reference.

38. Mr. Sandacz never responded to CJP.

PGPD Acknowledges Receipt, but Fails to Respond to the Request, 89 Days After Submission

39. PGPD did not acknowledge receipt of the Request until December 7, 2021 – 89 days after CJP submitted the Request and well after the statutory 30-day deadline. *See* Md. Code, General Provisions § 4-203. *See Exhibit I*, incorporated herein by reference. On that date, the PGPD Police Records Legal Unit responded that CJP's Request was being processed by the Prince Georges' County Office of Law for review ("PG County"). *Id.*

40. PGPD's December 7, 2021 response, **Exhibit I**, acknowledged it had received CJP's Request, but contrary to § 4-203 of the Maryland Code, failed to either grant or deny the request. *Id.* (requiring public bodies to either grant or deny MPIA requests "promptly, but not more

than 30 days after receiving” the request). Instead, PGPD simply informed CJP that it was sending the Request to the PG County Office of Law for consideration. *Id.*

41. On December 10, 2021, the PG County Office of Law sent an email to CJP requesting a time to ask questions related to CJP’s Request. CJP responded expressing willingness to answer questions in writing regarding its Request. *See Exhibit J*, incorporated here by reference.

42. Neither PGPD nor PG County ever sent CJP any questions related to its MPIA Request.

43. On December 30, 2021, PG County informed CJP that it would not search for records responsive to the Request unless CJP prepaid an \$8,400 fee. *See Exhibit K*, incorporated herein by reference. But the County failed to provide any support for its claim that the \$8,400 fee estimate was accurate, allowed by statute, or appropriate. PG County threatened to administratively close the Request without further action if the fee was not pre-paid. *Id.*

44. No fee was appropriate. CJP had requested a fee waiver when submitting its MPIA request, because it met the statutory requirements based on its status as a non-profit organization serving the public interest by providing transparency around justice system policies and police conduct. **Exhibit B.**

45. Therefore, upon receiving PG County’s \$8,400 fee request, CJP asked PG County for clarification as to whether it was denying the request for a waiver and if so, to explain its basis for doing so in writing. *See Exhibit L*, incorporated herein by reference. CJP also requested information supporting PG County’s calculation of the \$8,400 fee estimate. *Id.*

46. On January 31, 2022, four months after CJP submitted its MPIA Request, PG County confirmed that it had denied CJP’s fee waiver request. *See Exhibit M*, incorporated herein

by reference. PG County justified its denial of the fee waiver by claiming the requested records would not contribute to the public's understanding of how PGPD functions. *Id.*

47. PG County failed to support its assertion that the documents would not contribute to the public's understanding of justice system policies and police conduct with any explanation. *Id.* PG County again threatened to close the Request administratively unless CJP paid the \$8,400 fee amount by February 28, 2022. *Id.*

48. In response to PG County's denial of the fee waiver request, CJP submitted a complaint to the Public Information Act Compliance Board ("PIACB") appealing the fee amount and arguing that the fee should be waived. *See Exhibit N*, incorporated herein by reference.

49. On appeal, PG County claimed that based on a preliminary investigation they had identified "thousands of pages" of documents potentially responsive to CJP's request. **Exhibit C**. Confusingly, the fee estimate PG County submitted to the PIACB was for only \$7,560, not the \$8,400 it originally requested from CJP. *Id.*

50. Roughly two weeks after submitting their response, PG County unilaterally chose to withdraw its fee request. *See Exhibit O*, incorporated herein by reference.

51. That same day, April 1, 2022, Defendant provided their final response to the Request. This was 206 days after CJP submitted its MPIA Request. *See Exhibit D*.

Defendant's Response

52. PG County's final response to the Request did not include a single public record. *Id.* Instead, the response acknowledged that there were responsive records, but for the first time directed CJP to request this information from the Washington/Baltimore High Intensity Drug Trafficking Area. *Id.* Nothing in PG County's response sets forth any basis for its refusal to search

and produce any of the “thousands of pages of potentially responsive documents” it previously alleged it had identified. *Id.*

53. PG County failed to cite a single exemption that the requested records might fall under the specific records for which denial is required under the MPIA. *Id.* §§ 4-301 – 4-327. *Id.*

54. The only part of the document containing any substantive information responsive to the Request states as follows:

1. PGPD does not maintain any databases containing data related to the supposed or actual gang affiliation of any person.
2. PGPD is a partner with the Washington/ Baltimore High Intensity Drug Trafficking Area which does maintain such a database. PGPD has access to this database.
3. W/B HIDTA is an intragovernmental partnership comprised of Federal, State and Local agencies. See www.hidta.org for more information.
4. PGPD’s Gang Unit has 16 members who can submit information to W/B HIDTA, and if all required criteria are met, W/B HIDTA personnel will include the information in their database. PGPD cannot directly add to or edit W/B HIDTA’s database.

Id.

55. PG County’s response failed to address most of the specific requests for records, including records sufficient to identify any database that PGPD maintains or may access that contains data related to any person’s actual or supposed gang affiliation, as well as related records regarding the supervision, use, and maintenance of any such database(s). *Id.*

56. PG County’s response regarding data it alleges is maintained by the Washington/Baltimore HIDTA is contradicted by Washington/Baltimore HIDTA’s own reports. On April 26, 2022, CJP submitted an MPIA request to the Washington/Baltimore HIDTA requesting records sufficient to identify any database that it maintains or has access to and contains data related to any person’s actual or supposed gang affiliation as well as related records regarding

the supervision, use, and maintenance of GangNet. *See Exhibit P*, incorporated herein by reference.

57. On May 9, 2022, Washington/Baltimore HIDTA responded to CJP's MPIA Request, stating that it is not subject to the MPIA as it is not a government agency. *See Exhibit Q*, incorporated herein by reference. Washington/Baltimore HIDTA noted that *any information it receives is the sole property of the originating agency*, citing *HIDTA Program Policy & Budget Guidance* sec. 6.2.9 and 6.3.8, and directed CJP to make a request to said agency. *Id.*

58. Between 2019 and 2021, PGPD contributed 113 entries to Washington/Baltimore HIDTA's GangNet database per year. *See Exhibits E-F*.

59. Upon information and belief, based on PG County's own allegations of having thousands of potential pages, PG County is in possession of records responsive to CJP's Request.

60. PG County admitted it has access to Washington/Baltimore HIDTA's GangNet database but did not provide any substantive response to the CJP's Request, let alone search for or produce responsive documents.

61. On information and belief, as the originating agency, PGPD is the sole owner of data supplied to the Washington/Baltimore HIDTA GangNet database, of which it has contributed at least 339 entries since 2019.

62. In sum, after having taken 206 days to respond to the Request—more than 5 times longer than authorized under the MPIA—Defendant failed to produce a single document or assert any basis for withholding the documents.

63. Given Defendant's admission that it has possession of thousands of responsive documents and their status as owner of information shared with Washington/Baltimore HIDTA, Defendant either did not conduct a reasonable search for those documents or simply denied CJP's

Request without justification. In either case, Defendant's actions fail to comply with Maryland law.

64. As a result of Defendant's MPIA violations, CJP is being denied access to information about PGPD's use of gang databases. This hinders CJP's mission to inform the public about these issues and participate in the ongoing public debate.

CLAIM FOR RELIEF

COUNT I: Violation of the MPIA

65. CJP re-alleges and incorporates by reference each and every allegation contained in paragraphs 1-64 as though fully set forth herein.

66. CJP properly submitted a written application to inspect public records "made" by PGPD or "received" by PGPD in connection with the transaction of public business—PGPD's law enforcement activities.

67. PGPD is a unit or instrumentality of a political subdivision of Prince George's County, P.G. County Muni. Code § 18-134, which is itself a political subdivision of the State of Maryland. As such, PG County is obligated to timely respond to MPIA requests within 30 days of receipt.

68. Defendant failed to timely grant, deny, or request additional time to comply with CJP's request in violation of Md. Code Gen. Prov. § 4-203.

69. Defendant knowingly and willfully violated the MPIA when, as the proper custodian of the requested records, they ultimately refused to provide copies of public records to which CJP is entitled, and which Defendant admit exist, 206 days after submission of the Request.

70. Defendant are the proper custodians of the requested records and have failed to cite any exemption that would preclude their obligation to disclose the requested records.

71. Accordingly, CJP respectfully requests this Court provide judicial relief compelling Defendant to produce responsive documents.

REQUEST FOR RELIEF

WHEREFORE, CJP respectfully requests that the Court:

- a. Declare that the documents sought by CJP are public records under Md. Code, General Provisions § 4-101, *et seq.*, and must be disclosed;
- b. Declare that CJP both operates in and seeks records that would serve the public interest, and is therefore eligible for a fee waiver;
- c. Declare that the Defendant has knowingly and willfully violated the MPIA;
- d. Order PG County to promptly conduct a reasonable search for all records responsive to CJP's MPIA Request, and to demonstrate that it employed search methods reasonably likely to lead to the discovery of responsive records;
- e. Order PG County to produce to CJP, within ten business days or such other time as the Court deems proper, all records responsive to the Request and subject to disclosure under MPIA, and indexes justifying in detail any withholdings or redactions;
- f. Award CJP statutory damages of \$1,000 pursuant to Md. Code, Gen. Prov. § 4-362(d);
- g. Award CJP attorney's fees and costs incurred in relation to this case pursuant to Md. Code, Gen. Prov. § 4-362(f); and

h. Grant CJP any other relief the Court deems just and proper.

Dated: March 12, 2024

DLA PIPER LLP (US)

/s/ William F. Kiniry, III
William F. Kiniry, III (AIS No. 1306190157)
DLA Piper LLP (US)
650 S. Exeter St., Suite 1100
Baltimore, Maryland 21202
Tel. (410) 580-3000
Fax (410) 580-3001
william.kiniryiii@us.dlapiper.com

Paul R. Steadman (IL Bar No. 6238160)
Constance I. Du (IL Bar No. 6345766)
DLA Piper LLP (US)
444 West Lake Street, Suite 900
Chicago, IL 60606-0089
Tel: (312) 368-2135
Fax: (312) 251-2850
paul.steadman@us.dlapiper.com
constance.du@us.dlapiper.com

Daniel Valencia (DC Bar No. 974818)
Helena D. Kiepura (DC Bar No. 1004347)
Henry Fildes (DC Bar No. 1720752)
Kathryn Riley Grasso (DC Bar No. 982290)
Salvatore Tamburo (DC Bar No. 467488)
DLA Piper LLP (US)
500 Eighth Street, NW
Washington, DC 20004
Tel: (202) 799-4000
Fax: (202) 799-5000
daniel.valencia@us.dlapiper.com
helena.kiepura@us.dlapiper.com
henry.fildes@us.dlapiper.com
kathryn.riley@us.dlapiper.com
salvatore.tamburo@us.dlapiper.com

Dennis A. Corkery (DC Bar No. 1016991)
Sarah L. Bessell (DC Bar No. 219254)
Washington Lawyers' Committee for Civil
Rights and Urban Affairs
700 14th St NW Suite 400
Washington, DC 20005
Tel: (202) 319-1000

dennis_corkery@washlaw.org
sarah_bessell@washlaw.org

Counsel for Plaintiffs