

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

Progeny, et al., v. City of Wichita, Case No. 6:21-CV-01100-EFM (D. Kan.)

This notice may affect you. Please read it carefully.

The United States Federal Court for the District of Kansas authorized this notice.

**TO: ALL LIVING PERSONS INCLUDED IN THE WICHITA POLICE DEPARTMENT'S
GANG LIST OR GANG DATABASE AS AN ACTIVE OR INACTIVE GANG MEMBER
OR GANG ASSOCIATE**

This notice is about a proposed settlement of a class action lawsuit in the case *Progeny v. City of Wichita*, Case No. 6:21-cv-01100-EFM (D. Kan.). This notice is intended for the individuals described above: anyone living who is included in the Wichita Police Department's Gang List or Gang Database as an Active or Inactive Gang Member or Gang Associate.

On August 23, 2024, at 1:30 P.M., there will be a final approval hearing before the Hon. Eric F. Melgren, Chief Judge of the United States District Court for the District of Kansas. Judge Melgren will hear evidence and argument to decide whether the proposed settlement is fair, reasonable, and adequate, and whether the Court should approve it.

YOU ARE WELCOME TO COME TO THE HEARING TO PRESENT TO THE COURT ANY POSITIVE OR NEGATIVE COMMENTS ABOUT OR OBJECTIONS TO THE SETTLEMENT. YOU ARE NOT, HOWEVER, REQUIRED TO COME TO THE HEARING OR MAKE ANY COMMENTS.

****PLEASE DO NOT CALL JUDGE MELGREN OR THE CLERK OF THE COURT ABOUT THE PROPOSED SETTLEMENT.**** Instead, you can get more information by following the directions below.

I. What Is This Class Action Lawsuit?

This lawsuit was filed on April 15, 2021 by Progeny, an organization that works with young people impacted by the criminal justice system, and four individuals (together, they are the "Plaintiffs") against the City of Wichita (the "Defendant"). Plaintiffs filed this lawsuit as a class action, which is a type of lawsuit where one or more people sue on behalf of a group of other people who have similar claims. Here, Plaintiffs have sued on behalf of the Class, which is defined as: "All living persons included in the Wichita Police Department's Gang List or Gang Database as an Active or Inactive Gang Member or Associate."

In this lawsuit, Plaintiffs allege that the Defendant, through the Wichita Police Department ("WPD"), is violating their federal rights and the rights of Class members by incorrectly including them in the WPD's Gang List or Gang Database as gang members or associates based on vague and overbroad criteria. Plaintiffs' lawsuit seeks to change WPD Policy 527 by clarifying and limiting the WPD's discretion to designate someone as a member or associate of a criminal street

gang. The Defendant denies that it is violating the rights of Plaintiffs or any other Class member.

Plaintiffs and Defendant have negotiated a proposed settlement of this class action. Their written agreement is called the “Settlement Agreement.” The parties have asked the federal district court judge assigned to the case to approve the Settlement Agreement. This Notice doesn’t change anything in the proposed Settlement Agreement, but it does give you a summary of the topics in the Settlement Agreement.

YOU HAVE THE RIGHT TO REVIEW THE ENTIRE SETTLEMENT AGREEMENT IF YOU CHOOSE. YOU ALSO HAVE THE RIGHT TO EXPRESS WHAT YOU THINK ABOUT THE SETTLEMENT AGREEMENT BEFORE THE JUDGE DECIDES WHETHER TO APPROVE IT. YOU CAN DO THIS BY SUBMITTING WRITTEN COMMENTS, ATTENDING AND/OR TESTIFYING AT THE FINAL APPROVAL HEARING, OR BOTH.

To get a copy of the Settlement Agreement, please follow the instructions below or visit the Wichita Police Department website at www.wichita.gov/536/Police. The Settlement Agreement is also located on the Kansas Appleseed Center for Law and Justice’s website at www.kansasappleseed.org and the ACLU of Kansas’s website at www.aclukansas.org.

II. What Does the Settlement Agreement Do?

If the Court approves it, the Settlement Agreement, this litigation will end without a trial. Under the Settlement Agreement, Defendant will have to notify any individual the WPD adds to the Gang List or the Gang Database of their inclusion, and why they were included. If this settlement is approved, individuals will be able to find out if they are on the Gang List, using a form attached to the Settlement Agreement. If an individual finds out that they have been included on the Gang List or Gang Database, and they believe their inclusion is wrong, they may appeal their inclusion to a Gang Review Ombudsperson (“GRO”) by filling out and submitting a form attached to the Settlement Agreement. In their appeal, the individual can contest the reasons they have been included and provide additional information to show that they are not a member of a criminal street gang. If the appeal is denied, the individual can submit another appeal after 18 months.

In order for the WPD to include (or continue to include) an individual on the Gang List or Gang Database, the WPD will need to determine that an individual meets the revised, narrower, and stricter criteria in the revised Policy 527. Before including a juvenile (a minor under the age of 18), the WPD must notify the juvenile’s parent or guardian and attempt to make a plan for the juvenile to correct behavior that contributed to the juvenile’s potential inclusion in the Gang List or Gang Database. If the juvenile successfully completes the plan, the juvenile will not be included in the Gang List or Gang Database.

Furthermore, the Defendant will no longer maintain the categories of “associate” or “inactive” individuals on the Gang List or in the Gang Database.

In addition, the Defendant will conduct an annual audit of individuals included in the Gang List or Gang Database. If an included individual has no additional activity that would satisfy the revised criteria for inclusion in the Gang List or Gang Database for two years, that individual will

be removed from the Gang List and Gang Database.

Defendant's compliance with these topics will be evaluated and reported on by an independent person, or "Special Master," who will review and assess Defendant's performance under the revised WPD Policy 527 every six months for three years. The Special Master will report his conclusions to the parties and may create a corrective action plan if Defendant is not performing as it is supposed to under the Settlement Agreement. Defendant will pay the cost of the Special Master.

The lawsuit does not request any money damages, so the **Settlement Agreement does not include payment of any money damages for any Class members.** This lawsuit only requests what is called "injunctive and declaratory relief," which are court orders requiring changes to the WPD Gang List and Gang Database policy and practices. These changes are as summarized above and fully described in the Settlement Agreement document itself.

If approved by the Court, the Settlement Agreement also requires Defendant to pay \$550,000 in attorneys' fees and expenses to Plaintiffs' lawyers. Class members will not owe money or costs or fees of any kind in connection with this lawsuit or the Settlement Agreement.

III. How Do I Submit Comments, Objections, or Support to the Court and How Do I Request to Speak at the Hearing?

You have the right to submit written comments about or objections to the proposed Settlement Agreement. You must submit them by email or U.S. Mail to Class Counsel at either of the below addresses:

Kansas Appleseed Center for Law and Justice, Inc.
Attention: Teresa A. Woody
211 East 8th Street, Suite D
Lawrence, KS 66044
twoody@kansasappleseed.org

ACLU of Kansas
Attention: Kunyu Ching
PO Box 13048
Overland Park, KS 66282
kching@aclukansas.org

FOR THE COURT TO CONSIDER IT, YOUR EMAIL OR LETTER MUST BE **RECEIVED** BY CLASS COUNSEL NO LATER THAN **JULY 26, 2024**. You must sign your email or letter and include your name, address, telephone number, and (if you have one) an email address.

You can also ask to speak at the hearing. If you would like to do so, please include this request in your email or letter and briefly describe what you want to speak about. Your written request to speak at the hearing must be received by Class Counsel no later than **August 2, 2024**.

Class Counsel will share your email or letter with Defendant's counsel within five days of receiving it, and the parties will share all written submissions with the Court seven days before the hearing.

UNLESS THE COURT DECIDES OTHERWISE, ANY CLASS MEMBER WHO DOES NOT MAKE OBJECTIONS AS DESCRIBED ABOVE WILL HAVE WAIVED ALL OBJECTIONS. When an objection is waived, that means that the Court will not consider it.

IV. When and Where Will the Hearing Be Held?

THE HEARING WILL BE BEFORE UNITED STATES DISTRICT COURT JUDGE ERIC F. MELGREN ON **AUGUST 23, 2024, AT 1:30 P.M.**, IN COURTROOM 414, AT THE UNITED STATES COURTHOUSE, 401 N. MARKET STREET, WICHITA, KS 67202.

If the date, time, or location of the hearing changes, or if any other information about the hearing changes, the new date, time, location, or other information will be posted on the Wichita Police Department's website at www.wichita.gov/536/Police, the Kansas Appleseed Center for Law and Justice's website at www.kansasappleseed.org, and the ACLU of Kansas's website at www.aclukansas.org, but you will not be sent further notice of the change.

V. How Can I Receive More Information or Ask Questions?

For a copy of the Settlement Agreement, visit the Wichita Police Department's website at www.wichita.gov/536/Police, the Kansas Appleseed Center for Law and Justice's website at www.kansasappleseed.org, or the ACLU of Kansas's website at www.aclukansas.org. If you do not have access to a computer, please write to Class Counsel at the mailing addresses listed above or call 913-490-4107, and ask for a copy of the "*Progeny v. City of Wichita* Federal Court Settlement." For any other questions, please contact Class Counsel by email at twoody@kansasappleseed.org or kching@aclukansas.org or at the mailing addresses listed above.

****PLEASE DO NOT CALL JUDGE MELGREN OR THE CLERK OF THE COURT.****

They will not be able to answer your questions about the class action lawsuit or the Settlement Agreement. You may, however, review any non-sealed materials that have been filed with the Court in this case by going to the Clerk's Office at the Wichita United States Courthouse, 401 N. Market Street, Wichita, KS 67202. You can also access the Court docket in this case, for a fee, through the Court's Public Access to Court Electronic Records (PACER) system at <https://ecf.ksd.uscourts.gov>. The Clerk's Office is open Monday through Friday from 9:00 A.M. to 4:30 P.M. except Court holidays. To review materials in the public record in this case, refer to Case No. 6:21-CV-01100-EFM.