

LOS ANGELES DEPARTMENT OF HOMELAND ~~BOY~~ SECURITY > 1980 - 2005

COORDINATING LOCAL, STATE AND FEDERAL LAWS AND LAW ENFORCEMENT TACTICS TO INTENSIFY THE WAR ON GANGS

STATE AND LOCAL LAWS		LAW ENFORCEMENT TACTICS		THE YJC'S STAND ON THESE ISSUES	
Since the 1980s, California has led the nation in laws written to prosecute gangs.		"Gang suppression" tactics used by L.A. County have spread throughout California and across the U.S.			
1988: STEP Act – California Penal Code 186.20		Early-80s Gang Injunctions First Used in L.A.		STEP Act: The YJC believes that people should be held accountable for their actions not for their dress, affiliations or where they live or hang out. Racial, class and age discrimination results when government defines and criminalizes a "gang" instead defining and prosecuting criminal activity.	
Defines a Gang as any ongoing organization, association, or group of three or more persons, whether formal or informal, having as one of its primary activities the commission of one or more of the crimes (listed below), having a common name or common identifying sign or symbol, and whose members individually or collectively engage in or have engaged in a pattern of criminal gang activity.		In the early 80s, the first injunctions were put into use in Pomona, West Covina and East L.A., but the first injunction to get national attention was initiated by James Hahn, then L.A. City Attorney, against Playboy Gangster Crips in 1987. L.A. County continues to have more injunctions than any other jurisdiction, but the practice has spread east and is now in use throughout the nation.		Gang Injunctions: We are opposed to gang injunctions believing them to be unconstitutional; discriminatory based on race and class; unjust for entire communities due to increased surveillance, arrest, and code enforcement; costly; and ineffective in addressing the root causes of gang violence. Long-term our goal is to cease all use of gang injunctions. Short-term, we are fighting for L.A. to: (A) Exempt all community-based organizations, church programs and public transportation from gang injunctions so people named in an injunction can still access essential services such as job training, etc. (B) Stop violating people (on Gang Injunctions, Probation and/or Parole) for living or being in contact with family members who are gang members unless they are committing a crime together.	
186.22 lists the following crimes as examples of criminal gang activity: assault with a deadly weapon, robbery, illegal drug trafficking, shooting at an inhabited residence or motor vehicle, drive by shooting, arson, intimidation of victims or witnesses, grand theft (or vehicle theft), burglary, rape, looting, money laundering, kidnapping, mayhem, torture, extortion, carjacking, illegal firearms trafficking, possession of loaded/concealed firearms.		Court Challenges The California Supreme Court ruled that cities can implement gang injunctions when it overturned a 1995 appellate court decision in <i>People v. Acuña</i> . The US Supreme Court ruled in <i>Chicago v. Morales</i> (1999) that a Chicago injunction patterned after California was unconstitutional and challenged individual freedoms. In the case of a San Diego injunction, the California appeals court stated that gang members can <u>keep their pagers</u> and cited that restricting pagers for any purpose violates ones freedom of speech.			
Makes belonging to a Gang a Criminal Offense A gang member is defined as any person who actively participates in any criminal street gang with knowledge that its members engage in, or have engaged in, a pattern of criminal gang activity, and who wilfully promotes, furthers, or assists in any felonious criminal conduct by members of that gang.					
The Penal Code section also provides serious penalties for participation in a criminal street gang, and requires gang members to register with local law enforcement – include providing finger prints and current photograph – when they are sentenced in either adult or juvenile court, when they are released from prison, or within ten days whenever they move. Failure to register is punishable by 16 months, 2 or 3 years.					
In its Name, Defines Gang Members as Street Terrorists and Gangs and Terrorist Organizations which enables California to apply federal terrorist legislation such as the Clinton Crime Bill and the Patriot Act to gang members.					
Allows for Gang Enhancements in Court For minor felonies an additional term of two, three, or four years at the court's discretion. For serious felonies, an additional term of five years. For violent felonies, an additional term of 10 years. Additional years also added if crime is committed on school grounds during school hours.		For details on how gang injunctions work, see the YJC's fact sheet on Gang Suppression Tactics (attached).			

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<p>1983: STEP Act – Continued</p> <p>Established CLEAR within the City and County of L.A. -- Community Law Enforcement and Recovery Demonstration Project, that put into place a multi-agency gang intervention program, administered by the City of Los Angeles under a joint powers agreement with the Los Angeles County Sheriff's Department, the Los Angeles County District Attorney's office, the Los Angeles County Probation Department, the Los Angeles Police Department, and the Los Angeles City Attorney's office, in order to "provide a flexible and coordinated response to crime perpetrated by criminal street gangs..."</p>	<p>1987, First Gang Database Created in L.A.</p> <p>In 1987, the Law Enforcement Communication Network and the Los Angeles County Sheriff's Department began developing a large database—the Gang Reporting, Evaluation, and Tracking System (GREAT)—to collect, store, and analyze personal information about suspected gang members.</p> <p>For details on how gang injunctions work, see the YJC's fact sheet on Gang Suppression Tactics (attached).</p>	<p>Gang Databases:</p> <p>The YJC wants LA County and the State of California to end the "WAR on GANGS." A War on Gangs is a War on Youth. To protect and support the positive development of all youth: A. End all practices used by guards in CYA, state prisons and county jails to stir up conflict and violence between rival gang members and races, including the practice of punishing people by putting them in enemy cells, taking bets on fights and games, spreading false information between neighborhoods or inmates that leads people to retaliate, and separating people based on gang or race instead of working to have us build peace with one another. The violence that happens on the inside spills out onto the streets, and too many people in our neighborhoods are getting killed behind this. B. Guarantee that people cannot be added to the Cal Gang (State Department of Justice) or local gang database(s) without receiving official notification and having the right to an appeal process. C. Ensure that people on gang database(s) who are not convicted of a gang-related crime or a violent felony within 18 months, are removed from the database(s). D. Rather than sweeping all youth into a police net, push law enforcement's gang suppression efforts to focus on the 5-10% of gang members claimed by law enforcement to be the serious offenders. E. Take immediate steps to stop the gangster tactics of gangster cops, including – banging on us in the street with disrespectful language; aiming guns at people in a threatening way when passing in police cars; dropping people off in "enemy territory;" unfairly labeling someone a gang member in court or lying about their gang activities in order to get a gang enhancement; stirring up conflict between neighborhoods and spreading false information that leads people to retaliate; or using police gang signs, nicknames or tattoos that are racist or put down our communities (such as "Shootin' Newton," "77th Street Eat Their Dead," or Southwest Division's "Hired Guns"). These police tactics are getting people killed, and the officers involved must be fired. F. Push law enforcement to SUPPORT THE ONGOING GANG TRUCES IN NEIGHBORHOODS AND BUILD SIMILAR TRUCES IN OTHER NEIGHBORHOODS. Push for the appointment of an LA County <i>Peace Process Coordinator</i> to develop and recommend a comprehensive gang violence prevention plan for communities that suffer from gang violence. As part of this effort, establish a Countywide <i>Peace Council</i> composed of people working to promote gang truces and other gang violence prevention projects, either on the streets or within the prison and jail system. Because so much conflict happens statewide, similar councils should be established in other impacted counties and peace efforts should be coordinated.</p>

STATE AND LOCAL LAWS		LAW ENFORCEMENT TACTICS	FEDERAL LAWS	THE YJC'S STAND ON THESE ISSUES
1994 California Three Strikes/Proposition 184	1997 California Department of Justice Creates Cal/Gang Database	1994 Clinton Crime Bill	By the 90's, L.A.'s policies were also spreading east...	Three Strikes: The YJC is opposed to mandatory minimums. We believe that judges should have the ability to determine sentences because they can take into account the details of each case. We are pushing for alternatives to arrest, court, detention and incarceration in order to give communities more control in defining and distributing justice.
The California state legislature passed Three Strikes, which went into effect in March 1994. California voters passed it as a ballot initiative in the 2004 election. Although the first two "strikes" must be for serious felonies, the crime that triggers the life sentence can be any felony. Furthermore, the law doubles sentences for a second strike, requires that these extended sentences be served in prison (rather than in jail or on probation), and limits "good time" earned during prison to 20 percent of the sentence given (rather than 50 percent, as under the previous law).	Following the lead of L.A. in creating GREAT, California's Department of Justice contracted with an information technology company – SRA—to create Cal/Gang , which enabled police departments throughout Cali to collect data for local gang databases that also fed all local information into a statewide gang file. The Cal/Gang system is accessed by over 6,000 law enforcement officers in 58 counties. MORE THAN 250,000 PEOPLE ARE ON THE DATABASE IN CALIFORNIA. SRA also sold the technology outside of the state. Known as GangNet , it is now in use in ten other states and Canada.	Clinton's 30 billion \$ crime bill was the largest and most expensive in history: \$10.8 billion in federal matching funds for local governments to hire 100,000 new police officers over five years; \$10 billion for the construction of new federal prisons; an expansion of the number of federal crimes to which the death penalty applies from two to 58 (the bill also eliminated an existing statute which prohibited the execution of mentally incapacitated defendants); a so called 'three strikes' proposal which mandated life sentences for anyone convicted of three 'violent' felonies (or even 'attempts' to commit such felonies) or of two 'violent' offences and one 'serious' drug felony in federal courts; a section which allowed children as young as 13 to be tried as adults; and the creation of special courts able to deport non-citizens alleged to be 'engaged in terrorist activity' on the basis of secret evidence. In California, where gangs were already labeled as terrorists under the law, this allowed the federal law to be applied to all convicted gang members in the state, leading to the mass deportation of thousands of people, including youth. Many of these people were murdered by vigilantes and government death squads when they arrived in their "home" country. <u>Clinton also blocked</u> a measure added by the Congressional Black Caucus which would have permitted evidence of racial bias to be used by defendants appealing death penalty sentences. In its final form over \$3 billion was cut from the measure, but two-thirds of the cuts came from crime prevention programs. The final legislation was a major victory for all those who argue that crime is <u>not</u> a consequence of poverty, inequality, bad housing, disintegrating schools, high unemployment and other social causes, but is instead the result of anti-social individuals, who must be punished severely in order to deter others and protect the public. Clinton exploited Democratic loyalties to take the racist and conservative law and order policies of Nixon, Reagan and Bush further that the Republicans ever could.		Cal/Gang: We are opposed to gang databases (see gang injunctions and gang databases above.) Crime Bill: We are opposed to the crime bill including mandatory minimums, expansion in the use of prisons, and deportation of people based on criminal charges especially when they have already done prison time in the U.S. This constitutes discriminatory sentencing based on race, immigration status and income, which we are opposed to.

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2000 Proposition 21

In March 2000, California voters passed Proposition 21 (the so-called Juvenile Crime Prevention Act also known as the Gang Violence and Juvenile Crime Prevention Act) by 62%.

Proposition 21: (1) Requires more juveniles to be tried in adult court, including juveniles 14 years of age or older charged with committing murder or a serious sex offense. (2) Allows prosecutors to file charges against juveniles in adult court without permission of the juvenile court. (3) Allows for the lock-up of 16 and 17 year olds convicted in adult court into state prison. (4) Reduces confidentiality protections for juveniles including right to seal criminal records. (5) Increases gang enhancements for juveniles. (6) Requires youth gang members to register with local law enforcement. (7) Increases penalties for serious felonies, effectively eliminating juvenile life. Youth are now regularly sentenced to life in prison even in cases where no one was hurt. (8) Eliminates informal Probation for any youth convicted of a felony. (9) Greatly increases the list of offenses considered serious or violent felonies and included these as offenses as eligible for Three Strikes. (10) Increases punishment for gang-related felonies; death penalty for gang-related murder; indeterminate life sentences for home-invasion robbery, carjacking, witness intimidation and drive-by shootings; creates crime of recruiting for gang activities; and authorizes wiretapping for gang activities.

Coordination of law enforcement departments under the Department of Homeland Security,

including local police and sheriffs' departments; local code enforcement; the federal departments of Alcohol, Tobacco and Firearms (ATF), FBI, U.S. Marshal, IRS, ICE (Immigration), U.S. Military, and CIA. This coordination was first used in the federal prosecution of organized crime during the 1930s; first used against street gangs in the 1980s war on drugs when the federal RICO Act intended for the Mafia was expanded in use; and most recently used in Operation Falcon to target fugitives charged with felonies. (Operation Falcon description is attached from the U.S. Marshals.)

2001 Patriot Act

Passed overwhelmingly by Congress just after 9/11, the Patriot Act expanded terrorism laws to include "domestic terrorism" which subjects individuals and organizations to surveillance, wire tapping, harassment and criminal prosecution.

Because of the STEP Act, all aspects of the Patriot Act are applicable to people on gang files in California due to Calif's legal definition of gang members as "domestic terrorists" and gangs as "terrorist organizations."

Allows FBI to investigate people even when no probable cause exist when it is for "intelligence purposes." Allows for jailing of non-citizens as well as blocking their re-entry to the U.S. without representation or judicial review for months and even years.

Threatens Constitutional rights of 1st A - free speech, free assembly, freedom of religion, free press; 4th A - freedom from unreasonable searches and seizures; 5th A - no deprivation of life, liberty, property without due process of law; 14th A - due process and equal protection of the laws; 8th A - excessive bail, cruel and unusual punishment; 6th A - rights to a speedy trial, right to an impartial jury, right to hear charges, right to counsel, and to confront witnesses,

Proposition 21:

The YJC opposes Proposition 21 because it authorizes increased trials for youth as adults; life sentences for youth even in cases where no one is hurt; mandatory minimums; and the transfer of youth as young as 16 into adult prisons.

Homeland Security:

We are opposed to any laws and law enforcement tactics that unfairly target groups of people based on race, income, immigration status or other characteristics.

Patriot Act:

We are opposed to the Patriot Act because we believe it is Unconstitutional and inhumane to detain people without charges or access to a lawyer; to deport people without a hearing; or to limit freedom of speech, religion or the press. We believe that U.S. aggression and corporate greed has given rise to anger toward the U.S., and that occupied and economically oppressed people have little means other than guerilla warfare to strike back. These tactics often lead to civilian deaths, when military targets are too powerful to challenge. We do not agree with a media or government that labels groups as terrorists when the U.S. bombing of hundreds of thousands of civilians is labeled "collateral damage," "liberation," or "securing democracy."

		FEDERAL LAWS AND SUPREME COURT DECISIONS INCLUDING BILLS THAT ARE PENDING IN CONGRESS		THE YIC'S STAND ON THESE ISSUES
		March 2005 – Juvenile Death Penalty Abolished	In a 5-to-4 decision, the Supreme Court strikes down the death penalty for those who convicted of committing crimes under age 18, stating that laws authorizing capital punishment for 16- and 17-year-olds violate the Eighth Amendment standards for cruel and unusual punishment, and are therefore unconstitutional. The action reverses the death sentences of 72 people on Death Rows throughout the nation. Until this decision, the U.S. was one of only seven nations in the world that sentenced juveniles to death.	Death Penalty: We oppose the death penalty because it is racist and classist in its application, it is inhumane, it is more expensive than life-time incarceration, and we do not believe that you can teach people not to kill by killing them.
2005 Operation Falcon demonstrated how the Office of Homeland Security's law enforcement integration on all levels will work. (See above and Operation Falcon briefing paper, attached.)	S 155 by Senator Hatch (R-Utah) and Senator Feinstein (D-California), currently in Senate Committee. First introduced in 1996, much of the bill incorporated into 1999 "Juvenile Justice" bill which passed in the Senate but stalled in House Committee. Re-introduced January 2005 with the addition of funds for prevention and intervention. If enacted, S155 will basically take Prop 21 national, authorizing \$762.5 million over the next five years to support Federal, State and local law enforcement efforts against violent gangs, including witness protection, intervention and prevention programs for at-risk youth, and more funding for federal prosecutors and FBI agents involved in coordinated enforcement efforts against gangs.	Operation Falcon: Policing in the U.S. historically and currently is more focused on protecting property and serving the wealthy, while harassing and containing poor communities and communities of color. In most cases, the coordination of law enforcement efforts leads to Marshal Law and the mass lockdown of communities, contributing to greater instability, poverty and violence in our communities. We can think of only a few instances where such coordination would benefit poor and working class people, such as in the search for a missing person.	S 155: We oppose S 155 because it takes Prop 21 national, but we support that the bill took out mandatory minimums, and increased funding for violence prevention and intervention.	
	This will include the creation of new criminal gang prosecution offenses, "enhance" (increase sentences) for existing gang and violent crime penalties, propose violent crime reforms needed to effectively prosecute gang members, and propose a limited reform of the juvenile justice system to facilitate federal prosecution of 16 and 17-year-old gang members "who commit serious acts of violence." This bill used to look horrible until the much worse HR1279 was introduced in the House.	Improvements – Unlike the first Feinstein-Hatch bill, S 155 has no mandatory minimums and includes funds for prevention and intervention programs.		

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<p>May 2005 – In L.A. it is Rumored that “Operation Nutcracker” will Implement the Patriot Act’s Coordination Tactics Toward Gang Suppression</p>	<p>As the rumor is circulating, a law enforcement briefing paper was leaked, outlining “Operation Nutcracker” -- a planned coordination of the FBI, Alcohol, Tobacco and Firearms (ATF); Homeland Security, CIA, U.S. Marshall’s Office; U.S. Military, Sheriff’s Department, and LAPD through a Joint Task Force to combat gangs in L.A. County. This type of coordination has been publicly suggested by both Chief Bratton and the (L.A.) office of Homeland Security for a couple of years as a possible implementation strategy for the Patriot Act locally. However, the paper goes much farther in proposing Marshall Law with military involvement, including that local law enforcement will be responsible for containing designated areas, and the military will be responsible for “extracting domestic terrorists,” e.g. gang members. Operation Falcon is also rumored to be a model for how the planned coordination could work. In the community, Operation Nutcracker is being <i>incorrectly</i> cited as the implementation strategy for HR 1279. 1279 has not passed the Senate and is not connected to the Nutcracker rumor, which if it is true, could be implemented as a law enforcement strategy connected to the Patriot Act and Department of Homeland Security without Congressional or local legislative approval.</p>	<p>HR 1279 A.K.A. GANG BUSTERS</p> <p>Takes the intent of S155 much further. The bill passed the House 279-144 on May 11, 2005. If passed by the Senate, the bill will definitely be supported by Bush, and as a law will:</p> <p>(1) Expand the range of gang crimes punishable by death. (2) Increase by 200 a year the number of gang cases prosecuted in federal courts.</p> <p>(3) Further establish minimum mandatory sentences and weaken judicial discretion including imposing death or life imprisonment for any crime resulting in death, at least 30 years in prison for kidnapping, aggravated sexual abuse or maiming, and at least 20 years for an assault resulting in serious bodily injury. Convictions for other gang crime – defined as violent crimes and other felonies committed to further the activities of a street gang – would result in a minimum prison term of at least 10 years. (4) Authorize the prosecution of 16- and 17-year-old alleged gang members in federal court as adults.</p> <p>(5) The House also approved an amendment to the bill by Rep. Bob Goodlatte, a Republican from Virginia, that would stiffen penalties for undocumented immigrants. The provision, approved 266-159, would add five years to violent crime and drug trafficking sentences when the violator is an illegal immigrant, and 15 years if the violator has previously been deported for a criminal offense.</p> <p>(6) Extend the statute of limitations for all violent crimes from five to 15 years.</p> <p>If enacted, estimates are that new prison costs due to this law over one decade will exceed 9 billion. Gang members can avoid prosecution only if they cooperate with prosecutors to build a case against other gang members.</p> <p>HR 1279 also builds on Cali’s definition of a gang, defining criminal street gangs as groups of three or more people who commit two or more gang crimes, one of them violent.</p>	<p>SB 609: We support SB 609 as a first step in changing conditions at CYA, and because it contributes to our goal to shut down CYA by closing Chadlerian.</p> <p>SB 795: We support SB 795 because it removes CYA Parole from state Corrections and transfers this role to the counties which are easier for families and organizers to hold accountable.</p> <p>Operation Nutcracker:</p> <p>We are trying to determine the authenticity of this rumor and briefing paper, however, we oppose every aspect of this strategy as Marshal Law. We also know that Nutcracker as it is laid out is very similar to the tactics promised by the L.A. Office of Homeland Security and LA Police Chief Bratton when the office first opened two years ago. It is for that reason that we renamed the Department Homeboy Security.</p> <p>HR 1279:</p> <p>We oppose 1279 on all levels. It takes California’s gang definition, laws and police tactics national; it further stigmatizes all urban youth of color as criminals; it expands the use of the death penalty; it assumes that crime and gang violence can be solved by police suppression and mass incarceration; and it prosecutes immigrants more harshly than others for the same charges.</p>

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		HR 970 The "Gang Prevention And Effective Deterrence Act" introduced on March 9, 2005 by Dennis A. Cardoza (D) from Merced, Adam Schiff (D) from Pasadena and Mary Bono (R) from Palm Springs – this legislation is nearly identical to the Feinstein-Hatch bill. It authorizes approximately \$650 million over the next five years to support federal, state and local law enforcement efforts against gangs, including witness protection and "at-risk" youth prevention programs. The bill also increases funding for federal prosecutors and FBI agents to increase coordinated enforcement efforts against gangs. In addition, H.R. 970 creates new criminal gang prosecution offenses, enhances existing gang and violent crime penalties, proposes changes to more easily prosecute gang members, and proposes a limited reform of the juvenile justice system to facilitate federal prosecution of 16 and 17 year old gang members who "commit serious acts of violence."	HR 970 This bill is nearly identical to S 155. We oppose it for the same reasons. Even as Prop 12 has been proven to be unfair to youth and families and a disaster to the state, still California's federal representatives are spreading bad policies east.
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2000